Calendar No. 2251

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2228

AUTHORIZING THE CONVEYANCE OF A CERTAIN TRACT OF LAND IN NORTH CAROLINA TO THE CITY OF CHARLOTTE, N. C.

JUNE 14 (legislative day JUNE 11), 1956.—Ordered to be printed

Mr. ERVIN, from the Committee on Government Operations, submitted the following

REPORT

[To accompany H. R. 8634]

The Committee on Government Operations, to whom was referred the bill (H. R. 8634) to authorize the conveyance of a certain tract of land in North Carolina to the city of Charlotte, N. C., having considered the same, report favorably thereon, with an amendment, and recommend that the bill, as amended, do pass.

The amendment is as follows:

On page 2, line 4, strike out "(62 Stat. 770. 350)", and insert in lieu thereof "(62 Stat. 350)".

PURPOSE

The purpose of this bill is to authorize and direct the Administrator of General Services to convey all right, title and interest of the United States in a tract of land containing approximately 18.06 acres to the Charlotte Park and Recreation Commission, an instrumentality of the city of Charlotte, N. C. The bill further provides that the consideration paid shall be 50 percent of the fair market value of such tract as determined by the Administrator, less $10,000, the amount contributed by the Charlotte Chamber of Commerce toward the original purchase price paid for such tract and contiguous land by the United States.

The transfer of surplus federally owned realty for park and recreational use may be effected under the authority of Public Law 616, 80th Congress (62 Stat. 350 ch. 433). The property covered by the subject bill may therefore be conveyed by the Administrator of General Services, upon the payment of a price equal to 50 percent of the fair value of the property. As this statutory provision is mandatory, the proposed legislation was introduced so that the city of Charlotte might adjust the statutory requirement in the amount of $10,000

which sum was contributed by the Charlotte Chamber of Commerce toward the original acquisition of the property. Since there is no provision for such administrative adjustments of equities or interest resulting from circumstances of Federal acquisition it is a matter for congressional determination. The subject bill would provide such authorization to the Administrator of General Services.

The House of Representatives approved an amendment in the nature of a substitute for the original bill, which was identical to a bill, S. 3491, introduced in the Senate by Senator Samuel J. Ervin, Jr., of North Carolina. In explanation of the amendment (H. Rept. No. 1955), the House committee stated:

> Statutory authority (Public Law 616), approved June 10, 1948 (50 U. S. C. app. 1622 (h)), now exists for the transfer of surplus federally owned realty to States, political subdivisions, and instrumentalities thereof for park and recreational use at a price equal to 50 percent of the fair value of such property based on its highest and best use as determined by competent appraisal. The authorizing act prescribes the conditions precedent to such transfers, requires conveyance conditions and restrictions appropriate to insure utilization of the property for the use intended, and provides for reverter to the United States upon nonuse or discontinuance of use for park purposes during the statutory period of 20 years.
>
> Inasmuch as this bill proposes, though not expressly stated, to accomplish substantially the same result as that now permitted by existing statute except as to computation of the required consideration, the committee feels that this proposed transfer should be as nearly consistent with existing law as the objectives of the bill permit.
>
> Certain parcels of property have more than average complications as to descriptions due to successive subdividing. In such cases by including in legislative proposals extensive and often complicated descriptions of properties to be conveyed, the committee apprehends that inaccuracies might subsequently be discovered which might have the effect of rendering legislation ineffectual, or at least raising questions that could just as well have been avoided by legislative foresight. Accordingly, the committee believes that, in such instances, proposed legislation authorizing specific transfers of surplus realty should describe the property in general terms sufficient for accurate identification, leaving the precise description to be administratively determined at the time of conveyance. Particularly this procedure appeals to the committee in cases such as this wherein an original tract of land has been subdivided 2 or 3 times by reason of successive piece-by-piece withdrawals from excess for Federal utilization, finally leaving a remaining portion to be disposed of as surplus.
>
> Rewording of the body of the bill so as to incorporate these recommended provisions appeared to the committee preferable to line-by-line amendment.

AGENCY COMMENTS

The Bureau of the Budget and the Veterans' Administration interposed no objection to enactment of H. R. 8634, as amended, in the House of Representatives, but deferred to the views of the Administrator of General Services who stated that—

> The statutory discount of 50 percent of the fair value of the property is not an unreasonable discount. In the absence of compelling circumstances, the General Services Administration would not favor the enactment of special legislation, such as that represented by S. 3491, to provide a greater discount than that accorded by law to other local governments, particularly in the light of the omission of the reverter clause otherwise required in the case of transfers for public park purposes at less than fair value.

Reports from the agencies having an interest in this proposed legislation follow:

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., April 4, 1956.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate,
Senate Office Building, Washington, D. C.

MY DEAR MR. CHAIRMAN: This will acknowledge your request of March 22, 1956, for the views of the Bureau of the Budget on S. 3491, a bill to authorize the conveyance of a certain tract of land in North Carolina to the city of Charlotte, N. C.

This bill authorizes the General Services Administration to transfer a tract of surplus Federal property to the Charlotte Park and Recreation Commission, Charlotte, N. C., for 50 percent of fair value less $10,000, the latter amount corresponding to the sum contributed by the Charlotte Chamber of Commerce at the time of the original purchase of the property by the Federal Government. It is our understanding that the land in question is a part of a tract of 32.5 acres acquired in 1947 as the site of a Veterans' Administration hospital. The owner of the land was paid $65,000 by the Federal Government and $10,000 by the chamber of commerce. The hospital proposed for the site was not built, and a part of the tract has been transferred to other Government uses. The present appraised value of the remaining acreage is $72,000. We understand that the city has applied to the General Services Administration to purchase the property for 50 percent of its value under existing legislation but that negotiations have not been completed pending action on the proposal for a monetary credit of $10,000 contained in S. 3491. In view of the fact that the city has indirectly acquired some equity in the property because local interests contributed part of the purchase price, we would have no objection to this feature of the bill.

Under existing law conveyances of surplus Federal property for park and recreational purposes may be made with certain restrictions and conditions as to the purposes for which the property may be used and reversion to the United States under certain circumstances. It

is our belief that the conveyance proposed by this bill should conform to the requirements of existing general legislation governing surplus property transfers of this type.

Subject to the foregoing the Bureau of the Budget would have no objection to enactment of S. 3491.

Sincerely yours,

PERCY RAPPAPORT,
Assistant Director.

VETERANS' ADMINISTRATION,
Washington, D. C., April 10, 1956.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington 25, D. C.

DEAR SENATOR MCCLELLAN: Further reference is made to your letter of March 22, 1956, requesting a report by the Veterans' Administration relative to S. 3491, 84th Congress, a bill to authorize the conveyance of a certain tract of land in North Carolina to the city of Charlotte, N. C.

The bill proposes to require the Administrator of General Services to convey to the Charlotte Park and Recreation Commission, an instrumentality of the city of Charlotte, N. C., all right, title, and interest of the United States in and to a described tract of approximately 18 acres of land located in Charlotte, N. C. The bill provides that in consideration therefor the Commission shall pay an amount equal to 50 per centum of the fair market value of the tract as determined by the Administrator, less $10,000, the latter sum representing the amount contributed by the Charlotte Chamber of Commerce toward the purchase price paid for such tract and certain contiguous land by the United States.

In 1947, the Veterans' Administration purchased, from private owners, a tract of approximately 32.5 acres of land, comprising a portion of a former golf course, as a site for a proposed 500-bed hospital. The Chamber of Commerce of Charlotte, N. C., contributed $10,000 toward the $75,000 purchase price.

On December 20, 1948, the President approved the recommendation of the Bureau of the Budget to curtail the Veterans' Administration hospital construction program by approximately 16,000 beds, which was accomplished in part by the cancellation of 23 new hospital projects. The hospital scheduled for construction on the site in Charlotte, N. C., was among those eliminated. The entire Charlotte site was declared to the General Services Administration as excess to the needs of the Veterans' Administration on July 15, 1952. Subsequently, the Veterans' Administration, as the holding agency and at the direction of the General Services Administration, transferred 7.46 acres of the original site to the Department of the Army on March 4, 1954 (accepted on March 30, 1954); 4.0 acres to the Department of the Air Force on February 24, 1955 (accepted on March 24, 1955); and 2.98 acres to the Department of the Army on August 9, 1955 (accepted on August 23, 1955). S. 3491, if enacted into law, would direct the transfer of the remainder of the Veterans' Administration hospital site, or approximately 18 acres of land, to the Charlotte Park and Recreation Commission.

Although the bill is of primary concern to the General Services Administration, certain technical aspects are noted, which should be clarified in the event of its favorable consideration. The dates of the transfers of the 3 tracts to the service departments, appearing in line 20, page 2, line 7, page 3, and line 13, page 4, do not agree with the actual dates of the transfer instruments and acceptances. Further, the description of the 4-acre tract transferred to the Department of the Air Force in 1955, refers to the Veterans' Administration (lines 13, 24, and 25, page 3). It would appear that this reference would be meaningless if the 18-acre tract is transferred to the Charlotte Park and Recreation Commission.

In view of the fact that the Administrator of General Services has control of the disposition of the described tract and since the bill provides for the conveyance of the tract by him, it is assumed that your committee will secure his views relative to the proposal. Undoubtedly, his report will include comments on the merits of S. 3491.

Advice has been received from the Bureau of the Budget that there would be no objection to the submission of this report to your Committee.

Sincerely yours,

H. V. HIGLEY,
Administrator.

GENERAL SERVICES ADMINISTRATION,
Washington, D. C., May 24, 1956.

Re: S. 3491
Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: Further reference is made to your letter of March 22 requesting the views of this agency on S. 3491, for the conveyance of certain land to the city of Charlotte, N. C.

The bill would require the Administrator of General Services to convey to the Charlotte Park and Recreation Commission of Charlotte, N. C., without condition or restriction as to future use, all right, title, and interest of the United States in and to the land described therein, comprising 18.06 acres, more or less, upon payment by the Commission of an amount equal to 50 percent of the value of the land as determined by the Administrator, less $10,000, the latter sum representing the amount contributed by the Charlotte Chamber of Commerce toward the purchase price paid for such tract and contiguous land by the United States.

The land with which the bill is concerned comprises a part of 32.5 acres acquired by the Government for a Veterans' Administration hospital in June 1947. The Government at the time of acquisition was willing to pay only $65,000 for the 32.5 acres, while the seller was demanding $75,000. In order to expedite the consummation of the sale, and without solicitation by the Government, the Charlotte Chamber of Commerce agreed to pay the owner $10,000 to induce a sale to the Government for $65,000.

The Federal Property and Administrative Services Act requires that disposals of surplus property, without restriction as to use, ex-

cept where the value thereof does not exceed $500, or where advertising would serve no useful purposes, be pursuant to competitive bidding at an advertised public sale.

There is, however, provision in that act in conjunction with the Surplus Property Act of 1944 for the transfer of property to State and local governments and instrumentalities thereof for public park and recreational use upon payment by the transferee of 50 percent of the fair value of the property appraised for its highest and best use. Those laws also require that the transferee be bound to use and maintain the property for the purpose for which it was transferred for 20 years, with provision for reverter of title on cessation of such use, and provide that the Secretary of the Interior shall be responsible for enforcement of compliance with the conditions of transfer.

The city of Charlotte did in fact apply to this agency in October 1955 for transfer of the property for use for park purposes pursuant to the laws referred to. The fair value of the property was thereupon established at $72,000, and the city informed that a transfer would be made to it upon payment of $36,665, representing 50 percent of the fair value plus the cost of appraisal and expense incurred in the investigation made by the National Park Service to determine the suitability of the land for park purposes. The city reaffirmed its desire to obtain the property for park purposes but stated that it wished to await the outcome of action on this bill.

Existing law contains ample authority for the sale of this property to the city of Charlotte or to its instrumentality, the Charlotte Park and Recreation Commission, on the basis of fair value but with a public benefit discount based upon its use for public park purposes of 50 percent of its fair value. S. 3491 would, in effect, provide for an additional discount, in that the computation of the purchase price would exclude the costs incurred by the Federal Government in appraising the property for purposes of disposal and in investigating its suitability for park purposes, also in that it would give the city the benefit of a contribution by a private organization toward the original purchase by the Federal Government of land of which this tract is a part. Moreover, S. 3491 would eliminate the reverter clause that is otherwise required by law to insure the continued use of the property for public park purposes, which is the basis for the public benefit discount.

It is difficult to establish precisely the equitable discount, either in terms of dollars or percentages, that should be allowed in the case of disposals of real property for public park purposes. The statutory discount of 50 percent of the fair value of the property is not, however, an unreasonable discount. In the absence of compelling circumstances, the General Services Administration would not favor the enactment of special legislation, such as that represented by S. 3491, to provide a greater discount than that accorded by law to other local governments, particularly in the light of the omission of the reverter clause otherwise required in the case of transfers for public park purposes at less than fair value.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

FRANKLIN G. FLOETE,
Administrator.

DEPARTMENT OF THE ARMY,
Washington, June 1, 1956.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to S. 3491, 84th Congress, a bill to authorize the conveyance of a certain tract of land in North Carolina to the city of Charlotte, N. C. The Secretary of Defense has delegated to the Department of the Army the responsibility for expressing the views of the Department of Defense thereon.

The purpose of the bill is to authorize and direct the Administrator of General Services to convey to the Charlotte Park and Recreation Commission, an instrumentality of the city of Charlotte, N. C., all right, title, and interest of the United States in and to a tract of land described in the bill, upon payment by the Commission of an amount equal to 50 percent of the fair market value of the land, as determined by the Administrator, less $10,000, the latter sum representing the amount contributed by the Charlotte Chamber of Commerce toward the purchase price paid for the tract of land and contiguous land by the United States.

The Department of the Army on behalf of the Department of Defense has considered the above-mentioned bill. The 32.5 acres of land described in section 2 of the bill were acquired by the Veterans' Administration in 1947 to provide a site on which to construct a hospital. The land was not used for this purpose and was reported to the General Services Administration in 1952 as excess property. In March 1954, the 7.46 acres described in the bill, beginning at line 22, page 2, were transferred by the Veterans' Administration to the Department of the Army to provide for the establishment of the Charlotte Army Reserve Training Center. In February 1955, the Veterans' Administration transferred the 4 acres described in the bill, beginning at line 9, page 3, to the Department of the Air Force to provide for the construction of an Air Reserve Center. Finally, in August 1955, the Veterans' Administration transferred the 2.98 acres described in the bill, beginning at line 15, page 4, to the Department of the Army to provide for the establishment of an Armed Forces examining and induction station.

There is no foreseeable Department of Defense requirement for any of the approximately 18 acres to be conveyed to the Charlotte Park and Recreation Commission under the bill.

Enactment of this measure will not involve the expenditure of any Department of Defense funds.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

WILBER M. BRUCKER,
Secretary of the Army.

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84TH CONGRESS
2d Session

SENATE

REPORT
No. 2229

MACHINE-TOOL PROGRAMS

REPORT

OF THE

SELECT COMMITTEE ON SMALL BUSINESS

UNITED STATES SENATE

ON

MACHINE TOOLS: MOBILIZATION PLANNING, RESERVE AND REPLACEMENT PROGRAMS

JUNE 14 (legislative day, JUNE 11), 1956.—Ordered to be printed with illustrations

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(Created pursuant to S. Res. 58, 81st Cong.)

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84TH CONGRESS } SENATE { REPORT
2d Session } { No. 2229

MACHINE-TOOL PROGRAMS

June 14, 1956.—Ordered to be printed

Mr. THYE, from the Select Committee on Small Business, submitted the following

REPORT

INTRODUCTION

A German machine-tool builder and business leader, in explaining the phenomenal postwar industrial recovery of West Germany, stated that the victors—

> stripped our plants ruthlessly of all the machine tools and equipment that we had been operating for three shifts throughout the war. Meanwhile, as the old machine tools were going out the front door, brand-new ones, some purchased with United States dollars, were coming in the back. As a result we have one of the best equipped machine-tool plants in the world today, with which we can produce at costs well below any competition. The French and British likewise have replaced their prewar equipment—with machine tools that we purchased 15 years ago and operated 7 days a week around the clock during 7 years of war. It is not a bad way to lose a war.[1]

German realism as to the basic importance of modern, efficient machine tools to commercial production is matched by their awareness of the relationship of machine tools to defense production. While United States machine-tool production fell to less than $200 million annually in the late 1930's, German industry produced at a rate some five times greater. As a result, Germany suffered few of the machine-tool bottleneck problems that beset this country until well into World War II.

Recent testimony before the Senate Government Operations Committee [2] reveals the concern of witnesses and committee members over machine-tool shipments to the Soviet Union which are of undoubted

[1] Statement of Mr. Herman Heller as quoted in July 1953, issue of Fortune magazine.
[2] Hearings before the Permanent Subcommittee on Investigations of the Committee on Government Operations, United States Senate, pt. I, February 15, 16, 17, and 20, March 6, 1956.

importance to their military production. This desire of totalitarian governments for production equipment is cited as illustrative of the basic relationship between adequate quantities of modern machine tools and the production of armaments. Certainly no democracy is immune from the lessons of recent history about the vital necessity of an adequate production-equipment base. Your committee is convinced that the United States military position will be determined in the long haul, not only by development of advanced weapons, but by the efficiency of the production-equipment base as well.

It should be noted that the complexity of some recent military equipment requires intricate machine tools of peculiar design, especially in the field of aircraft production. On the other side of the coin, American industry is following a trend away from general-purpose tools to special-purpose tools, particularly in the automotive industry. The machine tools of the automotive industry may not be adaptable to future defense needs. Hence, a reliance on converting the general-purpose tools in civilian industry to war production may prove misplaced. This adds further emphasis to the necessity of procuring long-lead-time machine tools in advance of a future emergency.

Chapter I. Background

The interest of the Senate Small Business Committee in the United States machine-tool industry stems from the fact that the machine-tool industry, itself, is relatively small, comprising approximately 325 companies with a total employment of some 60,000 wage earners. More than 90 percent of these companies fall within the category of "small business." Government machine-tool policies necessarily bear heavily on the welfare of this segment of our small-business community. Furthermore, in times of machine-tool shortages, small manufacturers generally have problems in obtaining machine tools, which results in an inferior position in bidding on Government contracts. Small manufacturers face a further barrier in obtaining Government contracts in that competing companies often have available Government-owned machine tools on a lease basis.

Your committee's concern has been a continuing one, dating back to the serious complaints of the machine-tool industry and small manufacturers at the time of Korea. In 1952, hearings were held on the machine-tool shortages, and your committee concluded in its report:

> Machine-tool shortages have caused incalculable harm to small manufacturing concerns. The shortages have prevented many of them from undertaking defense contracts which they needed in order to survive the cut-backs in civilian production. The same shortages have affected large manufacturing concerns alike, preventing them from getting into full production, and thus making it impossible for the large contractors to subcontract to smaller industries. Above all, the shortage of machine tools has seriously retarded the building of our armed strength at a time when a maximum force at the earliest possible moment is imperative to our safety and perhaps to our survival.
>
> The committee cannot escape the conclusion that machine-tool shortages were avoidable and that they were the result

> of inexcusable shortsightedness and gross mismanagement of the machine-tool program at the outset. The experiences of World War II, when American industry went through similar difficulties should have taught us the importance of the machine-tool industry in any defense program and the need for giving that industry every assistance in its efforts to expedite production * * *.[3]

In 1952, at the conclusion of your committee's earlier hearings on machine tools, the Office of Defense Mobilization appointed an Advisory Committee on Production Equipment to explore machine-tool problems and recommend governmental policy. This Committee, under the chairmanship of Harold S. Vance, came to be known as the Vance Committee. The Vance Committee's basic responsibility was to draft a blueprint of high Government policy for the mobilization management of the machine-tool industry which, within the limits of human wisdom confronted with indeterminate future demands, would assure the Nation an adequate supply of primary production equipment for any contingency. It was known in advance that one major practical problem involved charting a policy course which would be acceptable to the three military services and would enlist their uniform and enthusiastic support. Another hurdle would be to find the millions of dollars needed to implement any coordinated machine-tool program.

In view of the effect of the Government machine-tool policies on small business and the relationship of the machine-tool industry to defense production, your committee concluded in February of this year that it was desirable to examine again governmental machine-tool plans and programs. Your committee hoped in this time of relative quiet to ascertain if the Nation was now better prepared in this area to meet any future emergency. The desirability of committee hearings was further heightened by a Department of Defense order freezing further procurement for reserve machine tools and the indications that existing machine-tool policies were being altered.

On February 7 and 8, 1956, hearings were held before the Subcommittee on Relations of Business with Government, Senator Edward J. Thye, chairman. Senator Thye stated:

> The committee expected that the unfortunate experiences with machine-tool shortages in World War II and again in Korea would lead all concerned to realize the overriding necessity of adequate governmental programs to prevent a repetition of a machine-tool bottleneck in a future emergency.[4]

Senator Thye added that the committee desired a clear explanation of the new Department of Defense policy, including the long-range impact of this new policy on the health of our machine-tool industry. Representatives of the Office of Defense Mobilization, the Office of the Secretary of Defense, and each military department were invited to testify as to their views and responsibilities for machine-tool programing. The committee also received testimony from representatives of the National Machine Tool Builders' Association and the American Machine Tool Distributors' Association.

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[3] S. Rept. No. 1989: Machine-Tool Shortages, report of Select Committee on Small Business, U. S. Senate, 82d Cong., 2d sess., p. 41.

[4] Machine-tool Programs, hearings before the Select Committee on Small Business, U. S. Senate, 84th Cong., 2d sess., 1956, p. 1.

THE VANCE COMMITTEE

The Vance committee urged a new approach to the problem of production equipment, proposing—

> that the policy of the Government, in preparing for a mobilization period, be to substitute to the greatest extent practicable, production capacity for the stockpiling of military end items.[5]

To achieve this objective, the committee recommended:

(1) That machine tools be procured in advance and held in reserve to support the mobilization-base program.

(2) That the Government institute an annual machine-tool replacement program to keep the Government inventory in an up-to-date condition.

(3) That recognition of the machine-tool industry as a vital cog in national defense means the industry should be maintained at a vigorous level of productivity.

In keeping with its recognition of the vital nature of the machine-tool industry, the Vance committee stated that a—

> healthy production equipment industry is a key factor in this Nation's ability to adopt and apply the policy of establishing and maintaining production capacity necessary for an adequate mobilization base.[5a]

The Vance report estimated Government machine-tool holdings at 500,000 units with a replacement value of $6 billion. Taking into account the current rate of technological progress, obsolescence, and depreciation, the committee urged an annual charge of 5 percent to keep the Government inventory in a "reasonably modern condition." This requires Government expenditures of roughly $300 million annually, merely to maintain properly the national machine-tool asset.

The Vance report also recommended expenditures of between $200 to $500 million over a period of several years to procure production equipment in support of an adequate mobilization base. The Vance committee assumed normal civilian orders in the amount of $300 million annually. This, together with the recommended governmental expenditures of at least $500 million, would maintain the United States machine-tool industry at the minimal $800 million level.

If the Vance concept had been implemented, obligations for mobilization reserves alone in the 3-year period since the Vance report (fiscal years 1954, 1955, and 1956) would have totaled from $600 to $1,500 million. To inaugurate the mobilization reserve program, the Congress appropriated, upon the urgent request of the Department of Defense, $250 million for fiscal year 1954. Fiscal year 1954 ended before any of the $250 million was obligated and these funds were allowed to lapse. The list of essential long-lead-time machine tools was further pruned by the Department of Defense until only $100 million was requested for fiscal year 1955. This amount and a like figure for fiscal year 1956 were appropriated by the Congress. In November of 1955, the Secretary of Defense stopped all obligations of funds appropriated by Congress for the procurement of long-lead-time tools in support of the mobilization base. Some $84 million of fiscal-year-1955 funds not obligated prior to the freeze were ordered returned to

[5] Production Capacity: A Military Reserve, a report to the Director of Defense Mobilization dated January 12, 1953, by the Advisory Committee on Production Equipment, p. 1.

[5a] Id., p. 12.

the Treasury. Your committee is informed that fiscal year 1956 funds are also being withheld.

Your committee is shocked to find that less than $16 million has been obligated to carry out the Vance recommendations for the creation of a mobilization reserve of machine tools. Thus, while the essential features of the Vance mobilization reserve plan were widely accepted—and supported by the Department of Defense as recently as the appropriations hearings for fiscal year 1956—results have been virtually nonexistent. Total obligations in the 3-year period were about $16 million, compared with Vance committee recommendations of $600 to $1,500 millions.

Your committee must also report adversely on the implementation of the Vance committee recommendations to maintain a modern machine-tool inventory through an annual replacement program. In the period since the Vance report, no readily identifiable replacement program has been instituted. While funds have been obligated during this period for machine-tool procurement in support of new production programs, your committee is unable to state just how much has been spent for machine-tool procurement since the Vance report. In response to a direct question, it was informed that machine-tool expenditure data are not available even in the Office of the Secretary of Defense. Secretary Pike estimates machine-tool procurement for fiscal years 1954 and 1955 at roughly $100 million each. To enable the Secretary of Defense, the Defense Mobilizer, and the Congress to determine the progress of Government machine-tool programs, your committee urges that all machine-tool procurement henceforth be recorded in a single report.

Chapter II. Summary of Current Issues

Your committee concludes that Government machine-tool procurement over the period since the Vance report has been inadequate. In a very real sense, we have been traveling on an injection of Korean machine-tool purchases while depriving the military departments of the steady nourishment they would be afforded through an annual machine-tool input. Those officials responsible for machine-tool programs have given lip-service to the Vance committee recommendations, with results commensurately meager.

Responsibility for this failure to come to grips with the Vance concepts must rest, in the first instance, on the defense mobilizer, who is primarily responsible for the entire defense production base. Responsibilities must also rest on top officials of the Department of Defense who have failed to make funds available for machine-tool modernization and who have been unwilling to implement the Vance mobilization reserve plan.

That Arthur S. Flemming, Director of the Office of Defense Mobilization, now concurs in the judgment that Government machine-tool holdings are below recommended security levels is clear from his testimony in the open hearings. The following exchange between the subcommittee chairman and Dr. Flemming is pertinent:

> Senator Thye. There is no question in your mind, Doctor, but what there is an adequate supply of tools in reserve and a modern tool that would meet every end requirement,

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and that you, as Director, are constantly going about seeing that the obsoletes are screened out in order that your supply is current, meeting the modern requirement, and that you would have an ample supply in the various branches of Government to meet every emergency that you anticipate?

Mr. FLEMMING. Mr. Chairman, there is serious doubt in my mind that we are in that kind of situation. That is why I have issued this policy. That is why I am for this new policy. That is why I hope that the Department of Defense will do as they have indicated that they will do, namely, put real drive back of achieving the objectives that are set forth in this policy. If the objectives that are set forth in this policy are achieved, then we would be in a much stronger position then we are in at the present time as far as machine tools are concerned.[6]

Again, in response to a question on whether he was satisfied with the state of our machine-tool reserve, Mr. Flemming stated:

Mr. FLEMMING. Of course, I am not. This policy is a reflection of that. This policy goes way beyond the recommendation of the Vance committee. This policy, it seems to me, is designed to meet directly the criticism that this committee made, and I think a valid criticism relative to the status of our machine-tool inventory. In other words, this committee said, "It is not modern enough. It should be modernized, and a program should be put underway to bring about its modernization." This policy is designed to do just exactly that.

* * * * *

Senator THYE. And to your best judgment, the new tools are available, and the packages are sufficient in number so that if emergencies do occur, the best of judgment of you and others, and your associates, is that you would have a sufficient supply of tools; is that what I am to understand?

Mr. FLEMMING. No, Mr. Chairman, you are not to understand that.[7]

NEW POLICY

Dr Flemming testified that, in response to his growing dissatisfaction with the state of the machine-tool inventory, the Office of Defense Mobilization and the Department of Defense jointly issued new directives altering the Vance Committee concept. The chief alteration of the new policy is one of management. Current directives [8] provide that, in lieu of a central fund, administered by the Office of the Secretary of Defense, each military department will henceforth budget for its own machine tools, including those for current use, mobilization reserves and replacement purposes.

Your committee has no desire to substitute its judgment on this organizational matter for that of responsible officials of the executive

[6] Machine-tool Programs, hearings before the Select Committee on Small Business, U. S. Senate, 84th Cong., 2d sess., 1956, p. 15.
[7] Id., pp. 15, 17.
[8] Defense Mobilization Order—VII-4—Amendment January 1956, Department of Defense directive, Feb. 2, 1956.

branch. It may well prove that the machine-tool procurement will be advanced by charging each military department with direct responsibility for all aspects of its machine-tool programing. Perhaps the existence of a central fund tends to weaken the determination of the military departments in providing for their own tool requirements. Your committee, however, points out one unfortunate aspect of this change: that, inasmuch as the fiscal-year-1957 budget is already completed, the military departments will have no opportunity to develop an overall, comprehensive, machine-tool program until fiscal-year-1958 budget. Hence, the Nation's potential for fighting a war will be compromised by another full year's delay in implementing a Government machine-tool program.

Borrowing

The new policy on machine tools produced a second major alteration, namely, permitting the "borrowing" of machine tools on a "loan" basis from the standby mobilization packages when such tools are not immediately available from "within the Government or from private industry." Unless carefully policed, this provision is a potential means for expending the most usable tools in the reserve, to the long-range detriment of our machine-tool asset. Certainly, it would be an error to permit a "grab" of the more modern tools in the standby packages to meet immediate schedules, at the cost of weakening our ability to cope with an emergency a few months or years hence.

Your committee was partially reassured by information supplied to it by Thomas P. Pike, Assistant Secretary of Defense (Logistics), to the following effect:

> * * * Loans of machine tools will be made only for high priority, current production programs when the nonavailability of long-lead-time tools would delay production schedules. The responsibility of the borrowing department to return any tool is absolute and unqualified. As provided in the directive, the borrowing department must return either the same tool or a new tool to the lending department. The terms of the loan must be mutually satisfactory to both departments. Budgetary ability is not considered involved except to the extent the borrowing department can commit itself. * * *.[9]

Your committee feels that the budgetary ability of a military department to replace a borrowed tool is one of the inescapable judgment factors in determining whether to permit borrowing. Your committee believes that the loan period should be brief, not exceeding the time required by the industry to build a modern machine-tool replacement. No one would want to delay the production of vital missiles or other high-priority end items while waiting for the production of a new machine tool when a machine is available from the reserves to fill the gap. To permit a production program to utilize a machine tool from a standby package beyond the minimum production period, however, changes the concept from one of "borrow" to one of "help yourself." Should an emergency occur while an essential tool is out of the standby package, our defensive ability is correspondingly reduced.

[9] Machine-Tool Programs, hearings before the Select Committee on Small Business, U. S. Senate, 84th Cong., 2d sess., 1956, pp. 41–42.

Budgetary problem.—Your committee must observe that there is no magic in the shift of responsibility to each military department. The crux of the problem remains the ability of the machine-tool programs to achieve a measure of budgetary priority. If machine-tool procurement is to be increased in the future, it is axiomatic that more money must be provided. While not disparaging the advantages of pinning machine-tool procurement responsibility squarely on each military department, your committee believes that the services must be assisted and guided in obtaining funds essential for vitalizing of their machine-tool inventory. If they are left to a choice between an aircraft carrier or an additional stand-by line, another B–52 or a modern machine tool, there can be little doubt of the resulting choice. The responsibility remains with the Office of Defense Mobilization and the Office of the Secretary of Defense to make certain that each military department not only develops a realistic machine-tool program but obtains the funds for its implementation. While the areas of first responsibility have been shifted to the military departments, the final responsibility must continue to rest at a higher echelon.

Your committee believes that a directive requiring each military department to report its machine-tool program as a single item is a minimum safeguard to guarantee that machine-tool procurement is not lost in the bureaucratic maze.

MOBILIZATION RESERVE

As noted earlier, the new Department of Defense directive places the responsibility on each departmental Secretary for maintaining machine-tool reserves as a part of package plants, standby lines or active-base packages. "Package plants" refers to equipment maintained where last used and intended for mobilization purposes. "Standby lines" means maintaining equipment adjacent to the point of last use and intended for mobilization purposes. "Active-base packages" is a newly created designation to cover those tools stored in active production facilities to accelerate current production rates in the event of mobilization. The new directive also provides for the storage of machine tools in centrally located warehouses earmarked for its intended mobilization use. This procedure is to be used where none of the above described arrangements can be made. Finally, certain machine tools can be retained even though not tied to a particular production program where experience indicates they would prove essential to a future mobilization.

The departmental Secretaries have been given 180 days from the date of the new directive to certify their needs according to the aforementioned criteria. Reserve equipment will be maintained in the following order of preference: (1) package plants, (2) standby lines, (3) earmarked warehouse units, and (4) tools generally required but not specifically earmarked. As explained to your committee, each military department is required to budget for those tools needed for package plants, standby lines and active-base packages. The terms of the directive also authorize each military department to budget for the acquisition of equipment to create new package plants, standby lines or active-base packages for the production of new or changed military end items.

Were this new directive accompanied by a history of procurement for a machine-tool reserve, your committee might well conclude that the essential feature of the Vance committee concept was being provided for. When viewed in the light of the failure to procure tools for reserve, even when funds were made readily available by Congress, your committee must conclude that there is a considerable retreat from the Vance plan for the creation of a vital machine-tool mobilization reserve. This conclusion is reinforced by testimony before your committee indicating an almost sole concern with machine-tool procurement in support of production in being.

Government witnesses appearing before your committee testified that the revised machine-tool policy resulted, in a considerable degree, from a revision of war plans to meet the strategic needs of today. Secretary Pike testified as follows:

> * * * our strategic concepts and our war plans * * * have changed to the point where there is very definite agreement at high levels in the Department of Defense that more important under this new concept is our production in being at the time a war might start out, as opposed to fine, new machinery gathering dust on the shelves.
>
> I think that that was one of several reasons—I believe it was the most important single reason—that went into the thinking and discussions in which Secretary of Defense Wilson participated, that caused us to change from the approach that had been set up and in behalf of which I testified last year.[10] The approach now is one wherein our procurement will be directed toward newer machine tools that will go into plants in being, so that we can more economically and efficiently produce planes and other weapons, and in the event of a mobilization will give us the best, most modern kind of production plant, it being implicit in this newer type of thinking on strategic plans that the production capabilities and facilities in being are going to be the ones that will determine how well we do in the initial exchange.[11]

Mr. Vance expressed much the same view, stating:

> * * * I think we are all familiar with the fact that war plans today are different from what they were in 1952. That is particularly true since the test of the first hydrogen bomb in the Pacific in the spring of 1954. I think one of the basic changes in the whole military picture since 1952 is that we now realize that the decision in a third world war, should it occur, is likely to come much quicker than was anticipated in 1952, and that consequently, we will not have a long period in which to produce weapons and other instruments of warfare after war starts, and with those additional items produced after the start of the war, effect, let us say, the conclusion of it.
>
> Stated otherwise, I think there is the general feeling that perhaps the decision will be made to a great extent by what we have in hand when war breaks out, and not what we can later produce.[12]

[10] Testimony before Senate Appropriations Committee, April 27, 1955.
[11] Machine-tool Programs, hearings before the Select Committee on Small Business, U. S. Senate, 84th Cong., 2d sess., 1956, p. 34.
[12] Id., p. 4.

Dudley F. Sharp, Assistant Secretary of the Air Force (Materiel), explained to your committee that the industrial readiness policy dictated a new approach to maintaining a machine-tool reserve. Mr. Sharp testified:

> * * * This new policy is based on the premise that, for the first time in modern history, our Nation is faced with a continuing potential threat of devastating destruction at the onset of general war. Thus, insofar as Air Force missions are concerned, the possibility of a full-scale war of attrition with a prolonged munitions production buildup is minimized, if not eliminated. The decisive phase of a full-scale war will be relatively short, and assets for its conduct must be in hand or available over a minimum period.[13]

This point of view is not wholly accepted even within the Department of Defense. Raymond H. Fogler, Assistant Secretary of the Navy (Material), wrote to your committee:

> It is sometimes argued that a future war will begin with enemy attack so catastrophic as to eliminate the possibility of using such equipment. The Navy has great reservations with respect to this reasoning. It overlooks the fact that properly selected machine tools represent the best provision for national recuperation in such an event. Also, it presupposes that we will as a nation fail to provide the means to minimize or ward off such an enemy attack.
>
> Hence, as noted above, the Navy believes that advance provision of carefully selected tools in such quantities as may be feasible is clearly in the national interest and is happy that the new defense policy permits that course of action.[14]

The following exchange during committee hearings is also pertinent:

> Mr. STULTS. * * * You did note at that time that the Navy does have some reservations to the premise that the next war will be completely catastrophic, and it will be a 30-day affair.
>
> Mr. FOGLER. Well, I included that in the letter because while I have no background for making any assumptions as to whether or not we might have a 30-day or 3- or 4-year war, I thought it was from an insurance standpoint very unsafe to assume and make all the preparations on its being a short war. And if we knew that it was to be, certainly we should not spend large sums of money for tools which will make end-item products, ships, for instance, because perhaps even with the tools immediately available ships might not be delivered for anywhere from 18 months to 3 years, or even longer.[15]

[13] Id., p. 73.
[14] Id., p. 186.
[15] Id., p. 98.

Secretary Pike recognized that the Department of Defense is faced with a complex problem of preparing for more than one type of war, as indicated in the following testimony:

> Mr. ODOM. The current philosophy, as I understand it, is that our mobilization base should primarily be concerned with a production in being, as compared with something that we might use in the case of a long, drawn-out national emergency.
>
> Mr. PIKE. I do not think that you can say that we only have one type of mobilization plan. Obviously, nobody knows what kind of war we are going to get into. But certainly one of the possibilities is the very fast, early phase decision type of war. There certainly is a possibility that we might become engaged in other so-called peripheral types of warfare. So I do not think that there is any one single type of mobilization plan that anyone can land on and say, "This is it, and I will do no thinking or make no planning for any other kind of emergency."
>
> I think that the whole thing has to be studied on a broad basis, and certainly elements of balance kept in mind. I do not think it is possible to give a specific "Yes" or "No" answer to the question that you have put to me for that reason.[16]

Finally, Secretary Sharp also took cognizance of the fact that peripheral wars are also a possibility, stating:

> Conversely, it is probable that less acute emergency situations, without domestic industrial damage, will arise which require accelerated production of some selected munitions. To make this policy into a meaningful program requires that production sources have capacity which, through the addition of material and manpower, will permit accelerated production.
>
> In accordance with the new readiness policy, and with the concurrence of the Secretary of Defense, the Air Force reoriented its portion of the reserve tool and facilities program from the "buy and store" objective to one of "buy and use." [17]

The phrases "buy and store" and "buy and use" may now accurately reflect changes in Department of Defense machine-tool policy. Your committee points out, however, that the net effect of machine-tool procurement for reserve, since the Vance report, has been one of "wait and see." The Congress has been receptive to a dynamic, positive approach to this problem area and has granted all funds requested; yet the Department of Defense has been unwilling to support its own program.

One of the reasons given for the failure to utilize funds available for reserve-tool procurement relates to the current emphasis on production in being. Department of Defense officials considered that the appropriations language restricted procurement for reserve purposes only. Since their first interest was for "current use" tools, they found no need to supplement the reserve—an area of second priority.

[16] Id., p. 37.
[17] Id., p. 73.

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Yet, your committee finds that the Defense Department made no effort to change the language of the Appropriations Act to meet what they now express as the essential need. The Navy Department was originally of the view that the appropriations language permitted procurements for current use in some instances. Despite this, and despite the evident willingness of the Congress to cooperate, the freeze order and subsequent testimony before your committee were the first public evidence of dissatisfaction. The new directive now permits "borrowing" from reserves, but the net effect of past failures has been to diminish the effectiveness of the reserve. Senator Thye posed the question thusly: "How can you have an ample supply of packages if you release the funds that have been appropriated for the purposes of maintaining the packages? How can you borrow from it if you have surrendered the funds and have not added to the package?"

The logic of the argument that Government machine-tool programs should be constantly revised in the light of strategic necessities is impressive. Nonetheless, there is ample testimony that no one can foresee the nature of future defense production demands. This suggests that there is still a great deal of merit in the Vance Committee recommendations for establishing a mobilization reserve.

Furthermore, your committee notes that the Vance Committee recommendations were made in late 1952, well into the atomic age when the possibility of quick military decision was apparent. Your committee was interested, therefore, in determining whether new data had been presented as a basis for altering the Vance Committee concept. The Vance Committee met some years after the advent of the atomic age, and, despite the possibility of a short war, it recommended the procurement of long-lead-time tools for reserve. It also met during the Korean war when the demands of a "convention" war were fresh in everyone's mind. Your committee doubts that the data presented to high-level officials were sufficient to support the conclusion. The following testimony supports this doubt:

> Mr. STULTS. * * * Your Vance committee did meet, however, 7 years after, let us say, the atomic age started. So you recognized that there might be a war of short duration. Nonetheless, your recommendation was that we do have these elephant tools, the bottlenecks.
>
> Mr. VANCE. Correct.
>
> Mr. STULTS. You saw what happened in Korea, where we did not go into an all-out war, but a smaller sort of fracas.
>
> Mr. VANCE. Correct.
>
> Mr. STULTS. Now, when the Defense Department's press release of January 5 says that you were fully consulted and concur in this new policy, did they present facts that demonstrated to your satisfaction that we are not likely to have another Korea? Or that we are now in much better shape as far as tools go than we were in 1952 or 1953, when your committee went into this?
>
> Mr. VANCE. No, we have not recently explored it in detail; no, sir.[18]

Your committee notes a certain contradiction in the testimony as to whether the essential concept of the Vance plan for creating a nobilization machine-tool reserve is to be retained. On the one

[18] Id., p. 10.

hand, Government witnesses testified that the revised program is in accord with the Vance concept. On the other, their testimony was based heavily on requirements for current-use tools. Viewed in the light of a history of disinterest, testimony before your committee suggests a lack of candor in explaining the reasons behind the revised policy or is indicative that key Department of Defense officials have not faced up to the policy problems inherent in a comprehensive, clearly-defined, machine-tool program. That some organizational confusion exists in the Department of Defense, is evidenced by the following:

> Mr. STULTS. I wonder if you feel that you could assure the committee that the military services under your direction, under Secretary Wilson's direction, would be more likely to commit funds for long-lead-time tools under this new setup than under the old setup.
>
> Mr. PIKE. Of course, I am not in a position to speak for the Secretary of Defense. * * *[19]

In summary, your committee is not convinced that the Department of Defense will now proceed to implement the mobilization reserve feature of the Vance plan.

Your committee concurs in the testimony of Swan E. Bergstrom, representing the National Machine Tool Builders' Association, who stated:

> We are convinced, however, that the subject of reserve machine-tool capacity is so vital in the interest of national security that any large discrepancy between such an important, generally accepted plan and its performance should be thoroughly surveyed and understood by all agencies of the Government.[19a]

Your committee is concerned lest the new policy make it harder to determine the progress of an adequate machine-tool reserve program. Or, as Senator Sparkman observed:

> What assurance are we going to have that the reserve will be adequately maintained, both in quantity and quality? It would seem to me that so long as the independent fund was available, it did serve at least to give us some method of checking on what was being done, and stood more or less as an assurance to us that the reserve would be maintained and built up.[20]

In the absence of significant budgetary support, the net effect of the policy change may be to revert to the status existing prior to the Vance report.

In this regard, your committee is impressed with the following comments offered by James C. Kelley, general manager, National Machine Tool Distributors Association:

> * * * The question in my mind is whether the changes do not signal a return to the policy which existed before the Vance plan. As I understand it, the services were always free to find funds in their general appropriations with which

[19] Id., p. 36.
[19a] Id., 46.
[20] Id., p. 6.

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> to buy additional productive capacity, and I recall that when I was working in the Navy Department after World War II, programs of this kind were actually put into operation. But this was not enough, as we very well learned during Korea. The Vance plan was designed to supplement the regular service programs and fill in a demonstrated deficiency.
>
> Now, as I have said, we may be back where we were before the Vance plan, but I shall have to add that there are two main differences. The first is negative: We may have lost three good years in which we could have done much more in building a firm production base. * * *
>
> On the positive side, the three services now have directives from a very high level of the Government to concentrate upon increased production capacity. The failure to build such capacity before Korea was undoubtedly due in part to a lack of central direction, and it is the industry's hope that this direction has now been provided. * * *[21]

Your committee is not disposed to make a determination about the nature of future defense emergencies or to guess whether these demands will entail a big or little war. In the absence of clear testimony, however, and in the face of the admitted doubts of responsible officials, your committee is inclined to agree with Secretary Fogler that it is, from an insurance standpoint, very unsafe to assume and make all the preparations on its being a short war.

Therefore, your committee must support as still sound the Vance committee's recommendations calling for advance procurement of machine tools in the support of a mobilization plan. This does not negate urgent requirements for special tools to meet current production schedules nor does it lessen the urgency of modernizing the Government inventory, with resulting economies. This is not a question of "either/or" but of "both."

REPLACEMENT

The Senate Small Business Committee has been concerned with the obsolete character of much of the Government machine-tool holdings and over the fact that little was being done to reverse the trend. Mr. Flemming, in his testimony, read with approval and acknowledged as relevant the following paragraph from the Sixth Annual Report of the Small Business Committee:

> Mr. Chairman, in reading the annual report of the Select Committee on Small Business and particularly that portion of the report dealing with the machine-tool industry, I find that your committee included this paragraph, which, it seems to me is very relevant to the discussion we are having at the present time. The committee said this:
>
> "The rapid technical advance in the design of machine tools in the last few years raises serious questions about the obsolete character of the Government inventory. Despite the increment of some machine tools during the Korean emergency, the major portion of the Government-owned inventory is of World War II design and is 11 to 15 years old.

[21] Id., pp. 110-111.

> Your committee notes that the executive branch is doing little to correct this situation and that in a very real sense the Government inventory is a wasting asset. Despite evidence that a sound replacement program would pay for itself in operating economies over a few years, programs for the replacement of machine tools and other industrial equipment universally received a low budget priority." [22]

Mr. Kelley's testimony indicated that machine-tool holdings in the Nations's industrial plants are in large part obsolete. Nor is this problem getting better; before Korea 43 percent of all machine tools were 10 years or older, while today the percentage is closer to 55. Turning to Government-owned machine tools, Mr. Kelley added:

> Here I think we must begin with the historical fact that Government shipyards and arsenals, and contractors holding Government-owned facilities, have traditionally produced the weapons of war at the outset of an emergency on equipment which was obsolete or near obsolete. In past emergencies, the Government has always started with the tools left over from the last emergency. It has not been customary to buy new machine tools for defense during peacetime. * * *
>
> While there is no accurate statistical means available to show precisely what the Government spent for capital goods between World War II and Korea, it is obvious that the rate of replacement was only an insignificant fraction of what was needed. There is little evidence to show that the situation has changed materially since Korea, and with the Government owning about one-fifth of the Nation's machine tools, the obsolescence of Government-owned machine tools is becoming a serious and urgent problem. * * * [23]

The Navy's program

The Navy Department has taken the lead in developing plans to cope with the machine-tool obsolescence problem. Testimony before your committee indicates that the Bureau of Ships, at least, is aware of the inefficiencies of an aging machine-tool inventory and has studied the matter in detail. This report turns to a brief review of the Bureau of Ships' study as illustrative of sound planning. The Navy study reveals machine-tool holdings in the 12 major industrial activities [24] valued at $150 million. These tools are largely of World War II design and most are from 11 to 15 years old. Technological advances since World War II have resulted in machine tools of improved design. Because modern tools are able to machine harder materials and hold closer tolerances, output per machine tool has increased significantly. Utilization of modern tools would require fewer operators and would require less floor space. The BuShips study indicates, therefore, that modern tools result in significant dollar savings to the Government and bulwark military preparedness.

[22] Id., p. 12.
[23] Id., p. 103.
[24] Eleven naval shipyards and the Naval Repair Facility at San Diego, Calif.

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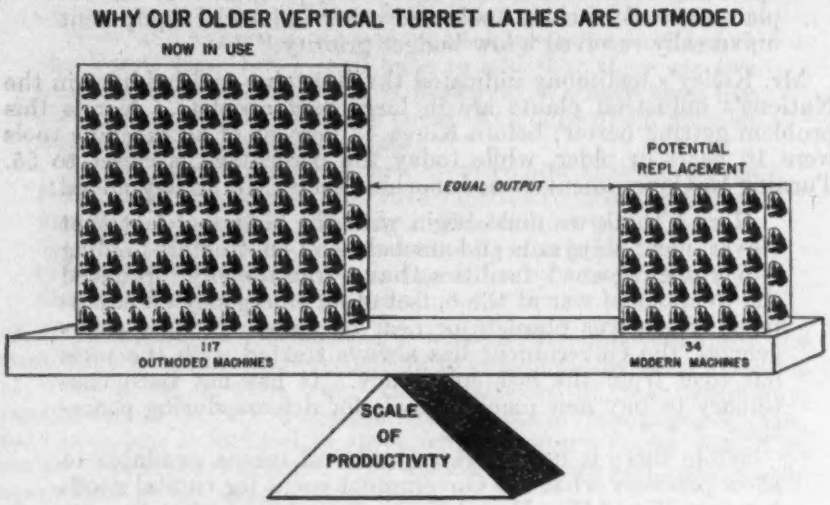
Taking verticlal turret lathes as an example, the BuShips study reveals that 34 modern machines could do the work of the 117 outmoded tools now in use. (See chart I.)

CHART I



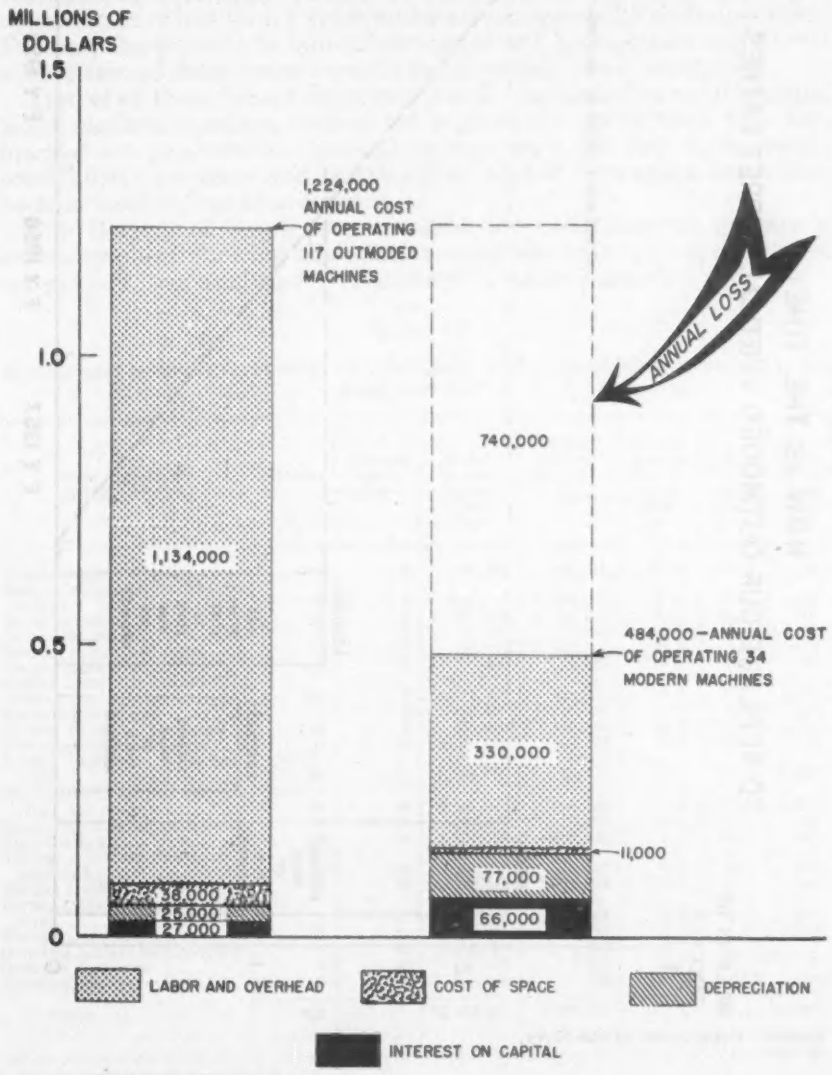
Source: Department of the Navy.

Under current one-shift operation, the obsolete lathes cost $1,244,000 to operate, as compared with operating costs of $484,000 for 34 modern tools. Hence, the Navy is penalized roughly $740,000 annually in operating the obsolete lathes. (See chart II.)

CHART II

COMPARATIVE COST

TO KEEP OUR OUTMODED VERTICAL TURRET LATHES



Source: Department of the Navy.

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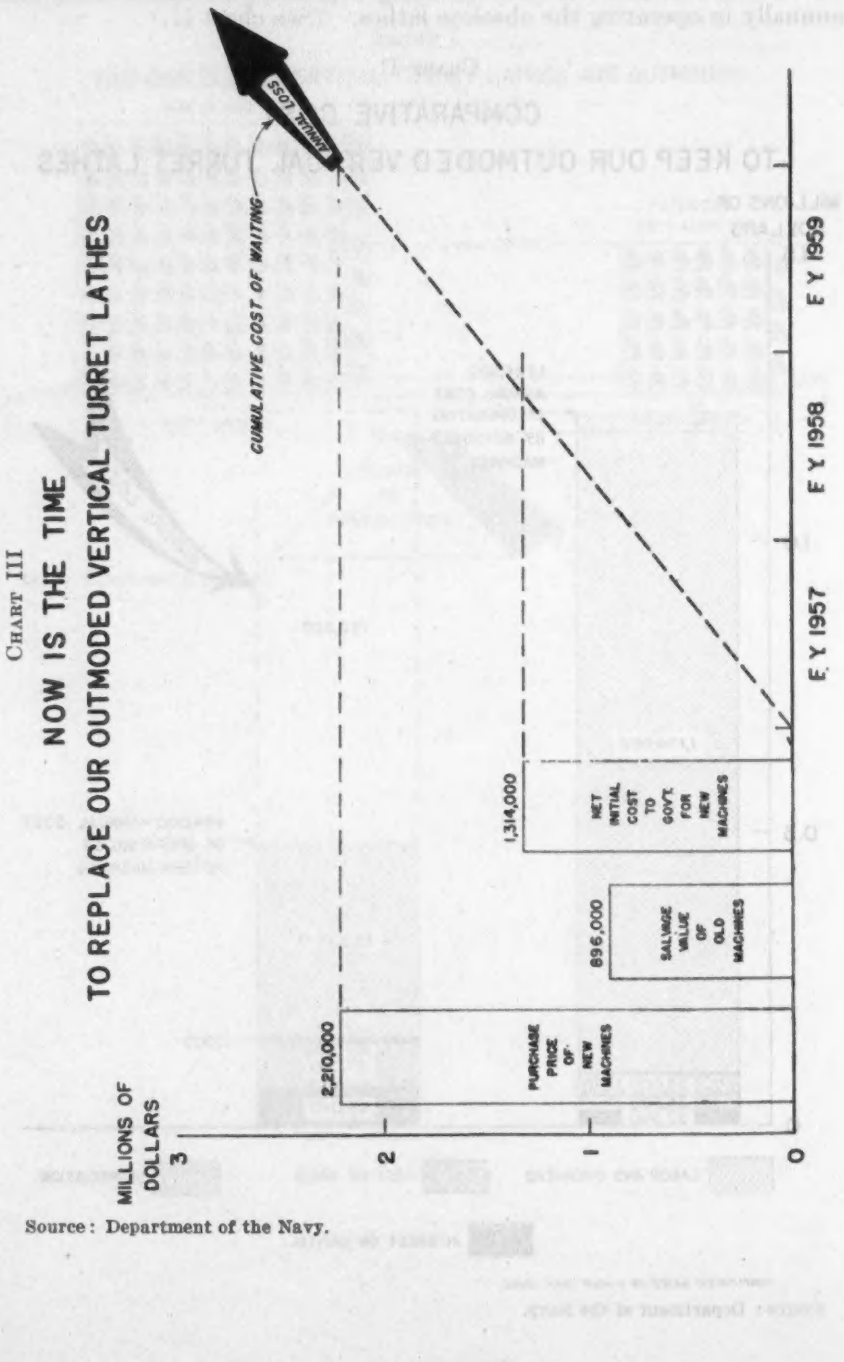
This sum, accumulated over a 2-year period, equals the net cost of replacement. (See chart III.)



Source: Department of the Navy.

Further, the use of old lathes wastes 6,627 square feet of floor space and requires 270.5 more man-years than would modern lathes.

While not all categories of machine tools show such dramatic savings, this example does serve to illustrate the rapid technological advances and the penalties of not maintaining modern machine tools. The survey of the 12 major BuShips industrial activities, as a whole, shows that 823 modern tools could replace the obsolete 1,218 machines currently operated. This analysis is concerned only with those tools most commonly used under peacetime conditions. The required investment of $14,369,190 would be amortized in 9 years on a 1-shift operation or in less than 4 years under an emergency 2½ shift operation. Further, there would be annual savings of 457.1 man-years and 23,607 square feet of floor space—scarce commodities in an emergency.

The Navy Department estimates that for mobilization requirements, 2,474 modern machine tools could replace the 3,496 tools now earmarked for production. Annual savings on a 2½ shift basis would total 3,090 man-years and 76,480 square feet of floor space and would be amortized in less than 5 years.

The Bureau of Ships program calls for each shop to prepare a summary sheet showing the relative replacement advantage for each category of item analyzed. (See chart IV as an example.)

CHART IV

Replacement program (summary): 11 shipyards and 1 repair facility, shop No. 31, fiscal year 1957

New equipment (brief description)	Number	Analysis sheet No.	Total investment line (18)	Total annual savings line (24)	Savings percent of investment line (25)	Direct labor (man-years)	Floor space square feet, line (11)
Duplicating machines	10	1	$46,800	$28,341	60.6	5.3	20
Engine lathes (under 16-inch swing)	94	2	949,500	209,070	22.0	45.3	1,339
Drills, upright	49	3	289,000	59,169	20.5	14.3	191
Lathes, bench	11	4	63,500	12,926	20.4	3.0	17
Contour sawing and filing	15	5	90,000	18,192	20.2	4.5	−18
Honing machines	4	6	73,500	14,562	19.8	3.5	54
Engine lathes (16- to 20-inch swing)	196	7	2,314,300	429,837	18.6	97.0	4,978
Threading machines	13	8	100,000	16,680	16.2	4.3	100
Milling machines, horizontal	48	9	976,000	123,156	12.6	35.1	1,612
Turret lathes, saddle type	55	10	1,550,500	190,574	12.3	50.5	4,542
Engine lathes (20- to 24-inch swing)	95	11	1,605,000	160,471	10.0	46.0	2,752
Turret lathes, vertical (66-inch swing and under)	36	12	2,151,000	200,723	9.3	67.1	3,199
Screw machines, single spindle	12	13	123,000	10,201	8.3	3.2	85
Turret lathes, ram type	104	14	1,634,500	109,149	6.7	39.7	3,059
Milling machines, horizontal, universal	9	15	234,990	15,107	6.4	6.2	308
Milling machines, vertical	10	16	278,400	12,901	4.6	6.6	154
Boring mills, horizontal, floor type	8	17	916,200	42,663	4.6	5.5	845
Shapers and slotters	32	18	508,000	17,129	3.4	11.1	298
Grinders, surface, reciprocating	9	19	177,000	4,480	2.5	3.75	2
Grinders, centerless	4	20	74,000	1,388	1.9	1.5	0
Grinders, surface, rotary	9	21	214,000	763	.35	3.75	70.5
Total	823		14,369,190	1,677,482	11.67	457.1	23,607

Source: Department of the Navy.

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Thus, management can readily determine where funds can best be utilized to provide the maximum return for the money invested. The BuShips program has been checked with competent industry experts and has been found to be sound in all respects. Annual funds of $7.5 million would be required if the Vance committee's percent factor were used or a minimum of $12 million if progressive industrial management were followed. Your committee compliments the Bureau of Ships on its foresight in developing a realistic machine-tool replacement program. What remains is to break through the budget barrier.

Your committee notes, however, that this is a BuShips program only and does not extend throughout the Navy. Nonetheless, this is a pioneer effort which is being studied throughout the Navy Department. Secretary Fogler estimates annual replacement requirements for the entire Navy Department at approximately $50 million under the Vance committee recommendations or a minimum of $80 million in accordance with progressive industrial practice.

Your committee regrets to report that the other military departments have no program comparable to the Navy approach. Each has shown interest in the Navy program. Your committee hopes that they will develop plans of equal merit and proceed to budget annually for a machine-tool modernization program.

In discussing the machine-tool modernization requirements, Mr. Kelley told your committee:

> It has often been said that Government is not in business to make a profit. From this it is said to follow that there is no urgency or need for the Government to modernize its facilities. This is fallacious thinking that has been costing the taxpayers millions of dollars. Government's interest in modern equipment lies in economy of production and ability to produce the required weapons in the time needed * * *.
>
> It is also often said that the Government can get along without the most productive modern machines and that there is no need to burden the taxpayers with the cost of modern machine tools when old or less expensive and less productive machines can be made to do. One fundamental these mis conceptions ignore is the increasing need for equipment which will hold the precise tolerances demanded in newer weapon production. Many of the obsolete machines in our arsenal today are incapable of meeting these exacting requirements; and they become less effective with each passing year * * *.[25]

Since your committee hearings, the Department of Defense has drafted a directive requiring each military department to institute an annual replacement program. This is a heartening development. As currently drafted, the Defense directive requires each department to institute and maintain programs to replace machine tools in active use at a "rate of not less than 2 percent or greater than 5 percent of the total listed inventory value per year." This announced policy represents the first concrete step to break the log-jam of obsolescence, and, as such, it is to be warmly commended.

[25] Id., p. 104.

Your committee feels that there are two elements of the proposed directive which call for further study. First, to be meaningful, the annual percentages should be based on the replacement costs of the current inventory. Using the purchase cost or some other artificial book value would mean an inadequate program. Second, testimony before the committee established that progressive industry uses an annual depreciation rate of 8 to 15 percent to maintain efficient tools. By this standard, the suggested 2 to 5 percent rate appears unrealistic. Assuming a 5 percent yearly replacement rate based on inventory value, it would take nearly 40 years to replace the current machine-tool inventory, with no provision to modernize the tools in standby packages or to replace the replacements. Considering the present age of Government machine-tool holdings, the current directive suggests that the Government will continue to pay the high cost of utilizing obsolete machines.

Along with a directive commanding that a replacement program be established, should come firm leadership to provide essential funding. As in the case of the reserve tool program, your committee notes that the effect of the directive rests almost solely on ability to fund the program. Your committee again does not wish to substitute its judgment for that of responsible officials on how an annual replacement program can best be funded or to comment specifically on proposals for the depreciation of machinery and equipment through working capital funds. Nonetheless, Defense officials must not remain insensitive to the major budgetary problems connected with this program.

MACHINE-TOOL INDUSTRY

Your committee has pointed out that one of the major tenets of the Vance plan is that a vigorous machine-tool industry, of itself, is a major imperative for national defense. The Vance report suggested $800 million annually as the minimum production necessary for a healthy machine-tool industry in the next few years. This committee is not aware of any challenges to the Vance concept that a healthy machine-tool industry is a vital necessity nor to the rough estimate that $800 million a year is a minimal level for these times. Yet your committee notes that in 1955—a year of unprecedented prosperity—machine-tool shipments were only $670 million, or $130 million below the desired level.

Despite the relatively low level of machine-tool shipments in 1955, the Department of Defense apparently has paid no heed to the Vance committee admonition to maintain a vigorous machine-tool industry. When questioned on whether the new defense machine-tool policy is adequate to maintain a healthy domestic industry, Mr. Pike replied by placing reliance on a press report showing a recent upturn in backlogs. The following exchange is pertinent:

> Mr. STULTS. 52 weeks ago, the picture was not as good as far as the machine-tool industry. How about now and 52 weeks hence? Would you look with favor upon, instead of just current-production tools, building up reserves again in order to serve the dual purpose of keeping the industry healthy and keeping good, current, modern tools in your own reserve?

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> Mr. PIKE. I certainly think that none of us can stop our thinking about any of these problems. We are living in a very dynamic, developing situation, and just as we have made a change that appears to this committee naturally to be rather radical—I think that you are very properly looking into the matter—I think that 52 weeks from now we have a lot of factors affecting the whole security of the country that certainly would be involved in a consideration of the machine-tool industry in particular.[26]

Mr. Pike's testimony seems to your committee to represent a weak response to a continuing and major problem.

Certain factors which tend to place the machine-tool industry in perspective should be kept in mind. For one thing, backlogs are customarily computed in terms of production at current rates. Further, American machine-tool capacity has been expanded and investment increased. Mr. Bergstrom testified:

> Optimistic reports in the press and trade journals on sales and new orders in the industry must be considered in the light of two important factors: First, they must be related to the expanded capacity of the industry and its need for a larger volume of business in terms of its increased investment in plants and machinery and equipment; second, comparisons with the sales volume of prior years are misleading not only because not properly related to capacity but also because of the substantial difference in the value of the sales dollar and in the size and complexity of the machine tools themselves.[27]

Mr. Bergstrom also said:

> I mention the present state of the industry because the strength of the industry was, after all, one of the principal matters discussed by this committee in its 1952 report on machine-tool shortages.
>
> In addition, it was one of the principal concerns of the Vance committee. But in recent Government announcements no mention is made of this phase, and this suggests that because of the publicity attending the machine-tool show, the recent congressional hearings on automation, and the upturns in the statistics on new orders, there may be a general impression in the Government that the industry has no problems. Admittedly, matters are better than they were after World War II, and I want to emphasize that the industry is not here today to foster any program of "make work" or subsidy. It is, we believe, however, unrealistic optimism and dangerous in terms of the national security to think that the machine-tool industry will magically emerge upon a plateau of sustained prosperity. The plain fact is that many companies are not operating near capacity.[28]

[26] Id., pp. 38–39.
[27] Id., p. 48.
[28] Id., p. 48.

Your committee believes that the Defense Department should not be complacent about the health of the machine-tool industry just because of a recent upturn in orders. It is alarming that key defense officials have shown small concern over this aspect of machine-tool programing despite the guidance of the Vance report.

The American machine-tool industry has always been subjected to a feast-or-famine cycle. (See following chart.) Unfortunately, it has been at its lowest ebb when needed most. Neglected before World War II, it was built to tremendous heights in 1942–43. After the war it was again ignored as a national asset and faced the additional burden created by the dumping of Government-held stocks. As a consequence, annual machine-tool sales fell as low as $250 million in the postwar era. Hence, the Korean emergency again found the machine-tool industry weak and in a poor position to respond rapidly to the new emergency.

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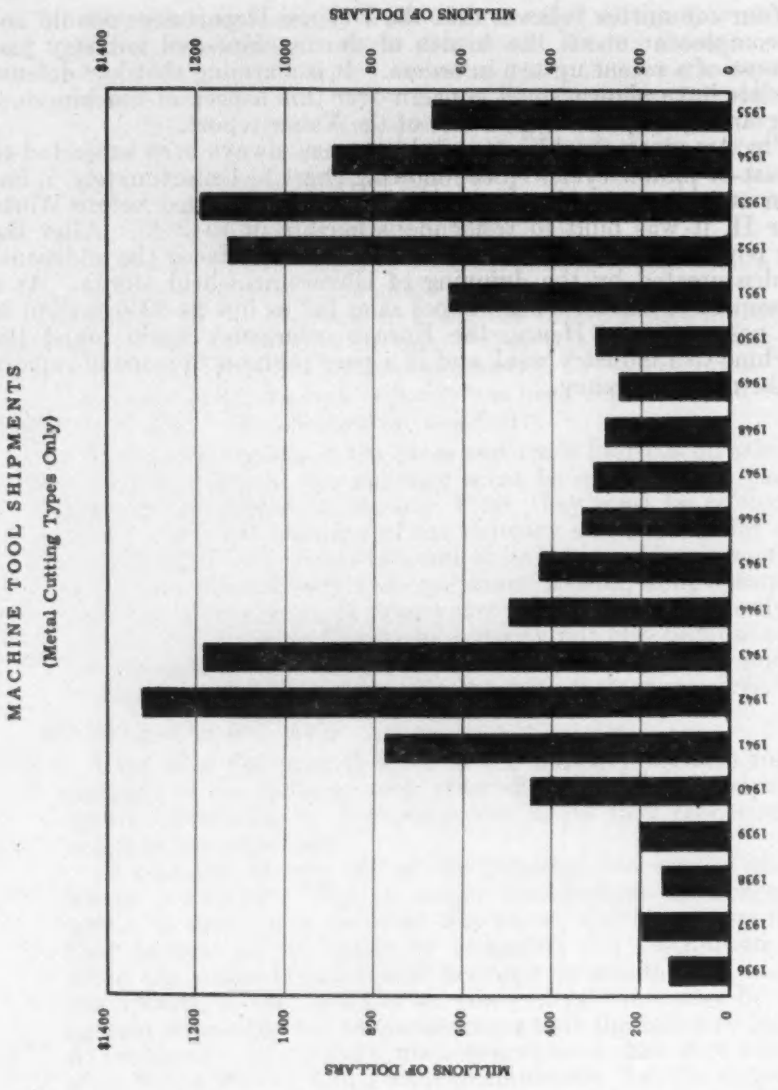

Source: Estimated from reports to National Machine Tool Builders' Association from 1936 through 1940, also from August, 1945; War Production Board estimates 1941 through July, 1945.

The Government did not repeat its earlier error by flooding the market with surplus machine tools after Korea. Negative action, however, is not the only requirement. Sound governmental policy requires easing to the maximum extent possible the violent fluctuations which have historically crippled the machine-tool industry. Government policy should aim at maintaining a vigorous domestic industry in being capable of rapid expansion to meet urgent needs.

As a result of a vigorous sales campaign, and the growing demands of automation, 1956 promises to be a better year for the machine-tool industry than 1955. Testimony before the committee however, indicates that much of the recent growth in machine-tool backlogs resulted from orders for highly specialized machinery, particularly from the automotive and aircraft industries. Hence, this boost may prove to be largely temporary. Even now those manufacturers of more common, general-purpose tools have not participated greatly in the influx of orders.

Your committee fully concurs in the widom of the Vance committee finding that a—

> farsighted, businesslike management of Government programs for the acquisition and maintenance of the production equipment could do much to reduce or eliminate the violent fluctuations that have characterized the production equipment industry in the past.

Therefore, your committee urges that the Government be alert to the problem of maintaining a functioning machine-tool industry. The level of vigor of the industry should be a very real ingredient in Government machine-tool policy.

MOBILIZATION PLANNING

The 1952 hearings held by the Senate Small Business Committee revealed clearly that failure to devise sound materials priorities and allocations and unrealistic pricing regulations were underlying causes for the delays in expanding machine-tool production in response to the Korean demand. Not until August 1951, more than a year after Korea, were price relief and material-priority assistance extended to the machine-tool industry. Your committee expected that experiences with these problems in World War II and again during Korea would have resulted in standing orders relieving the machine-tool industry of these burdens, thus making possible the rapid expansion of the industry in another emergency. There is no evidence that these problems have been solved. Mr. Bergstrom informed your committee:

> Unfortunately, I must report to the committee that if there were to be a new emergency tomorrow, there would very likely be the same confusion over prices and priorities that contributed to the Korean bottleneck. In the industry's opinion, we need, and need badly, systems of standby priority and price controls which could be triggered into effect at the beginning of a new emergency. The trigger program will not succeed unless the contractors have the priorities that would be required to obtain the necessary materials.

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> Defense orders for machines covered by the trigger program cannot be taken in the absence of an equitable system of price controls.[29]

Another basic reason for the slow machine-tool build-up during Korea was the prolonged delays in determining which production programs should have priority in the receipt of machine tools and, hence, which types were to be built. Not until January 1952, 18 months after Korea, was a master preference list on defense contracts produced. Not until April 18, 1952, 21 months after Korea, was a numerical preference list governing the priority of deliveries of machine tools to defense contractors published.

As one means to assure speedy machine-tool production in a future emergency, the Government has developed an M-Day pool-order program to be automatically "triggered" in any future emergency. Contract forms for these pool orders are nearly ready and much progress has been made on drawing up lists of machine tools to be covered under the pool-order program. Your committee recalls that after World War II the National Security Resources Board prepared similar "phantom orders." They were worthless during Korea, however, since the list of tools to be ordered had not been constantly reevaluated and brought up-to-date. Hence, the pool-order program will require constant surveillance if it is to prove more meaningful than the Korean phantom orders.

Testimony before your committee also established that current plans do not provide for the deferment of the highly trained engineers and mechanics essential to the production of machine tools. Your committee urges that the Office of Defense Mobilization and other officials responsible for defense production continue to develop and refine their mobilization plans. Sound advance programs, including standby controls, are required to assure that in a future emergency machine-tool production is not again hindered by unrealistic material priorities, manpower drafts or pricing controls. Further, your committee is informed that a simplification of contract forms and Government regulations would do much to eliminate the confusion and uncertainties facing the machine-tool industry. A simplification of this red tape would be especially helpful to smaller manufacturers who cannot afford large legal and liaison staffs.

INVENTORY

The Department of Defense has had in operation for some time a program to provide an "inventory" of Government-owned tools. By the term "inventory" is meant a complete list of all Government-owned tools. The latest information provided to the committee shows an inventory list of 277,000 tools each costing $500 or over. It is now estimated that the inventory will total 400,000 when complete. In order to facilitate the redistribution of idle machine tools, the Department of Defense has also established a "central inventory," which now includes more than 62,000 tools. This number is a part of the 277,000 overall total. Tools in the inventory are being coded for a wide variety of data, including condition, electrical characteristics, etc.

[29] Id., p. 53.

The committee has been informed that the Department of Defense has instituted a cross-checking procedure to assure that data on inventoried machines are complete. The Department of Defense is also checking to see that the stockpile is maintained without deterioration. Your committee believes that these precautions will do much to assure the placement of reserve tools with the minimum of delay in a future emergency.

Your committee agrees that much has been accomplished in determining the extent of the Government machine-tool asset. Nonetheless, this task has moved slowly. No undercurrent of dissent or service rivalry should be permitted to stem the completion of this task. Despite the gains to date, information as to make, model, electrical characteristics, age, condition, location, etc., for many of the Government-owned tools is far from complete.

That greater knowledge as to the extent of the Government holdings is required, is attested to by the fact that estimates of total holdings has dropped 20 percent since the task of inventorying began. It seems obvious that responsible defense officials should be aware of the extent of machine-tool holdings. Your committee, therefore, reiterates the opinion stated in its sixth annual report that "a complete, accurate, central inventory of Government-owned machine tools and production equipment is an imperative prerequisite to sound mobilization policies."

LEASING

A sizable number of Government-owned machine tools are presently leased to private industry. Decisions on what machines are to be furnished defense contractors and whether by lease or as a part of the facilities program, are left to individual contracting officers. Consequently, there is little uniformity of leasing policy. A possibility of discrimination between competing contractors exists.

Another problem connected with leasing is the establishment of a fair and reasonable rental rate. Testimony before your committee indicated that Government rentals are distinctly below commercial rates. The Defense Department took cognizance of this in January 1955 and issued a revised directive covering machine-tool rentals allowing rates up to 2 percent per month of acquisition value for those machine tools less than 5 years of age. However, industry witnesses informed your committee that the escape clauses of the directive have been so widely used that most leases continue at the rate of 1 percent monthly. Your committee feels that the Government low-rental policy grants unfair advantage to those favored. In particular, it tends to place small concerns at a competitive disadvantage. Further, your committee believes that the leasing of Government-owned machines at bargain rates tends to continue less efficient tools in production. To the extent that this is so, our defense-production capacity is diminished and our machine-tool industry correspondingly curtailed.

Mr. Kelley states the industry position as follows:

> As the industry sees the picture, present policy regarding commercial leases is based to too great an extent on a few individuals who must weigh each case against unknown standards. In the industry view, definite standards should be established and applied throughout the Government. In

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> particular, uniform rental rates which do not give holders of Government equipment unfair competitive advantages should be established for both defense and nondefense leases.[30]

The Government also leases tools to some firms for nondefense purposes. Government officials inform your committee that this procedure is followed only when an advantage accrues to the Government—for example, in connection with free storage or to keep a machine capacity intact where removal would seriously diminish its value. Information given to this committee indicates further that the number of such leases is small and requires prior approval by the Office of Defense Mobilization. Your committee believes that leasing for nondefense purposes should be held to a bare minimum.

ELEPHANT TOOLS

A continuing trend in metalworking has been toward larger machine tools and work pieces. Atomic energy programs and aircraft production, in particular, have need for "elephant" machines. An "elephant" machine means an unusually large multipurpose, precision tool needed to accomplish special tasks. Some weigh more than 400 tons; some require 10 rail cars for shipment.

In recognition of this special need, the Office of Defense Mobilization sponsored a program to expand elephant-tool production capacity. This program was achieved through accelerated tax amortization, loan guarantees, installation of equipment under lease contracts, pool-orders, and working capital advances. In all, some 308 units were delivered to elephant-tool producers under the impetus of this program.

As a further part of this program, the Office of Defense Mobilization initiated a survey to determine if existing stocks of elephant tools were sufficient to meet mobilization needs or whether elephant-tool purchases for reserve were required. Mr. Flemming wrote to your committee:

> Review of these data has shed important light on the adequacy of elephant tools. A considerably larger number of them are in existence than was anticipated. Also Government stocks are larger than expected. In addition, it seems clear from these data that existing elephants were not used to anything like capacity during the guns-and-butter Korean defense effort and that full use would probably not be the general situation under an all-out emergency. There consequently appears to be no need for any broad-gage program of Government financed purchase of such tools. * * *[31]

Industry witnesses challenged this conclusion. In noting that the elephant-tool reserve program had been sidetracked, Mr. Bergstrom said:

> * * * From what we know of the situation, this unfortunate development is in part the consequence of a misinterpretation of the results of the survey which was undertaken to determine the need for an elephant-tool reserve.

[30] Id., p. 108.
[31] Id., p. 140.

> As we understand the survey, it was based on the assumption that an elephant machine might be expected to work 5,000 hours a year in an emergency. The survey revealed that in 1952, at the height of Korean production, about half of the existing elephant machines worked less than 5,000 hours. From this the ODM has apparently concluded that there was sufficient elephant-tool capacity, but anyone familiar with machine-tool operations knows that this is not the case. * * *
>
> Our basic difficulty with the ODM conclusions from the survey is that 5,000 hours a year is a very high figure for elephant-machine operation in a guns-and-butter economy. * * * Ordinary production tools might be expected to work 5,000 hours a year in a guns-and-butter operation of the Korean type, but because of their special characteristics, the operating capacity of elephant machines is necessarily less than that of other machine tools. * * *[32]

Elephant tools work on very large pieces which are difficult to organize on a production basis. By their size, work pieces cannot be moved from plant to plant to equalize the workload on the elephant tools. Mr. Bergstrom expressed the opinion that under these circumstances it was surprising to find that more than half of the elephant tools worked 5,000 hours (2½ shift) during the limited Korean action. He added:

> I should like to suggest that the committee request a reexamination of the elephant-tool reserve program with particular attention to the question whether there was sufficient capacity during Korea and whether there will be sufficient capacity in a future mobilization. From all the information available to the industry and from the industry's interpretation of the survey which was made, it is plain that there was not enough capacity. * * *[33]

Testimony before your committee brought out the fact that elephant tools are an exception to the rule that a list of military end-item requirements is the prerequisite of machine-tool programing. Because of the unusually long lead-time required for their design and manufacture, it is essential that a sufficient volume of elephant tools be on hand prior to any knowledge as to specific end-item use. This necessity is compounded by the fact that many components of elephant machines must be built on other such machines, thus accelerating any shortage which may occur.

Mr. Flemming recognizes that "isolated elephant deficiencies" may exist and has accordingly requested a retabulation by size and location. Mr. Flemming added that "such deficiencies as may be established by this further study" will be eliminated by enlarging the Government-owned elephant-tool reserves.

Taking note that different conclusions have been reached on the Government survey, your committee recommends a reevaluation of this study to reconcile the conflicting opinions of industry experts and Government officials. This study should encompass not only "isolated deficiencies" but the major premises on which the Government

[32] Id., p. 49.
[33] Id., pp. 49-50.

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conclusions were based. In view of the extreme long lead-time involved in elephant tools, every effort should be made to reach creditable determination as to the volume of these machines needed for reserve.

TURBINE AND TURBINE GEAR PROGRAM

Another tooling problem requiring special attention is the so-called turbine and turbine gear program. The purpose of this program is to provide a reserve of those specialized machines required for the manufacture of propulsive units of modern ships. After a careful study, the Office of Defense Mobilization approved $70 million to provide a reserve of these vital tools. The usual period of delay followed; the Bureau of the Budget held up the program while an interagency study group again reviewed the list of tools and equipment.

Your committee can report that this program has now been approved in reduced amount. Except under unique circumstances such as those involved in the production of elephant tools, no responsible person would urge the expenditure of funds for machine tools unrelated to end-item requirements. Nonetheless, the delays in this program are illustrative of the difficulty that the Office of Defense Mobilization has encountered in making its determinations effective. Your committee has noted a general reluctance to commit funds for machine tools, though the uncertainties in this area would not seem substantially greater than in others. If greater determination is not shown, the next emergency may have come and passed without the vital decisions having been made.

CHAPTER III. CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS

In answer to the central question posed by your committee's hearings—whether the Nation is now in a better position regarding machine tools for another defense emergency than it was in 1941 and 1950—the committee cannot give an unequivocal answer. Nowhere has there been a machine-tool policy boldly conceived and forcefully executed. Rather, there has been a faltering and grudging reluctance in carrying out provisions of the landmark Vance report. Your committee regrets, therefore, that it cannot affirm that everything possible has been done to prepare the machine-tool segment of our defense capacity for a possible emergency.

In summary, your committee must note that the machine-tool inventory has received no significant input since Korea. Furthermore, no systematic machine-tool program can be instituted prior to fiscal year 1958. Your committee hopes, however, that some funds can be gleaned from fiscal year 1956 and 1957 budgets to inaugurate a machine-tool procurement program. Otherwise, another full year will slip by without improvement of the national machine-tool asset.

1. *Replacement.*—Your committee notes with satisfaction that the Department of Defense has adopted the concept of a machine tool modernization program since the hearings of February 8 and 9. It is essential that an annual replacement program, realistic in scope, be instituted without further delay. Testimony before this com-

mittee demonstrates that to a considerable extent a modernization program can be justified on the basis of operative economies. The continued operation of obsolete tools is wasteful of public funds. An improved capacity for meeting future defense production demands provides an additional bonus for a modernization program.

2. *Reserve.*—Your committee is perplexed at the evidence that the Vance committee recommendations for the creation of a mobilization reserve of machine tools has been given scant attention—this, despite the lack of any conclusive evidence as to the nature of future defense requirements. It seems evident that the production demands on the machine-tool industry in a future emergency—whether it be a major war or another Korea—will be heavy, indeed. It seems equally clear that a partial answer to this strategic dilemma is to implement Vance committee recommendations for the advance procurement of long-lead-time tools in support of a mobilization-base program.

3. *Role of ODM.*—Your committee believes that the Congress must continue to look to the Director of the Office of Defense Mobilization for leadership in developing broad machine-tool policies, despite the lack of major accomplishment in recent years. Dr. Flemming assures your committee that he will look to the Department of Defense to implement his policies in this vital area and that he will maintain an active interest in seeing that results are accomplished. Although he gave no concrete program for doing this task more effectively than in the past, your committee notes that this responsibility cannot be evaded.

4. *Role of Department of Defense.*—Your committee also feels that officials within the Office of the Secretary of Defense have a continuing responsibility to see that vigorous machine-tool programs are instituted by the military departments. These officials have the further duty of seeing that budget barriers are overcome and that each military department accords adequate budget priority to its machine-tool program.

5. *Mobilization plans.*—Your committee also deems it essential that mobilization plans be further refined and perfected, so that all possible barriers to the expansion of the machine-tool industry which can be anticipated in advance be removed. This recommendation is made not in the spirit of favoring the machine-tool industry but in recognition of the fact that machine tools are the first order of priority in expanding defense production. Your committee further concludes that a healthy machine-tool industry is of itself a defense asset of highest order which must be considered in determining the Government machine-tool policy.

On the positive side, your committee notes a generally increased awareness of machine-tool problems reflected, in particular, by the proposed directive for an annual modernization program. Much progress has also been made in determining the extent of our Government inventory and in preparing M-day pool-order programs. The requirement is not a one-shot program but a clear recognition at all levels of defense—policy, budgetary, technical—that a consistent policy resulting in an annual procurement of machine tools is essential.

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B. RECOMMENDATIONS

Your committee specifically recommends:

1. That the Department of Defense move ahead with its announced policy for instituting and maintaining an annual machine-tool replacement program.

2. That responsible officials of the Department of Defense direct particular attention to the budgetary aspects of machine-tool programing.

3. That machine-tool budget of each service be forwarded to the Secretary of Defense and totaled into a single item, so that officials of the Department of Defense, the Office of Defense Mobilization and the Congress may have a convenient reference for determining their adequacy.

4. That Defense officials should give renewed consideration to the Vance committee recommendations calling for a mobilization reserve of machine tools and related production equipment.

5. That the Department of Defense should program for special machine-tool requirements, e. g., elephant tools, turbine gear, etc., in addition to modernization programs and procurement of general-purpose tools for the reserve.

6. That the Department of Defense and each military department should push to completion the machine-tool inventory program.

7. That the Government should review its leasing policy with the view of establishing a fair rental rate and diminishing the number of Government-owned machine tools supplied to private industry, where feasible. In particular, the Government should exercise care to make certain that the competitive position of small concerns is not adversely affected by the leasing of Government-owned tools.

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Calendar No. 2252

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2230

FEDERAL-STATE CONCURRENT JURISDICTION

JUNE 14 (legislative day, JUNE 11), 1956.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 3143]

The Committee on the Judiciary, to which was referred the bill (S. 3143) to establish rules of interpretation governing questions of the effect of acts of Congress on State laws, having considered the same, reports favorably thereon, with an amendment, and recommends that the bill, as amended, do pass.

AMENDMENT

1. On page 1, line 5, strike the word "all" and insert in lieu thereof the word "any".

PURPOSE OF AMENDMENT

The amendment is a perfecting amendment.

PURPOSE

The purpose of the proposed legislation, as amended, is to establish a rule of construction by which the intent of Congress in enacting legislation may be determined.

STATEMENT

The United States as a Federal state has long recognized a division of powers between the Federal and the State Governments. Under the Constitution of the United States, it is clear that the powers of the Government may be divided into four classes:

(1) those which belong exclusively to the States;

(2) those which belong exclusively to the National Government;

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(3) those which may be exercised concurrently and independently by both; and

(4) those which may be exercised by the States only until Congress shall see fit to act upon the subject matter (*Ex parte McNiel*, 80 U. S. 236 (1872)).

This legislation is concerned primarily with the fourth category—the exercise of powers by the States until the Congress acts upon the subject matter. There is no doubt that this particular area has frequently been involved in litigation, often reaching to the Supreme Court of the United States. One need only review the decision of the Supreme Court in *Cloverleaf Co.* v. *Patterson* (315 U. S. 148 (1942)), to become aware of the substantial number of cases determined by that tribunal involving this point.

Early decisions of the United States Supreme Court indicated a reluctance on the part of the Court to displace State law by construction unless it was clear that the Federal and State legislation were in such conflict "that the two acts could not be reconciled or consistently stand together" (*Reed* v. *Colorado* (187 U. S. 137, 148)).

Since that decision, however, a doctrine has been developed known as preemption. By virtue of this doctrine, the courts sometimes declare a State act unenforceable on the basis that although there is no direct and positive conflict between the two acts, the Congress, when it entered the field, by implication sought to exclude the operation of State laws on the same subject. Recently this doctrine was invoked by the Supreme Court to render inoperative State sedition laws on the basis that Congress, in enacting the Smith Act, the Internal Security Act of 1950, and the Communist Control Act of 1954, evidenced an intent to occupy the field of sedition to the exclusion of State statutes. There was no clear expression of any such intent in any of these statutes, and indeed the principle author of the Smith Act has declared that he had no such intent in sponsoring the legislation.

As a result of this decision, the Cloverleaf case, and other similar decisions, the state of the law concerning the operation of State laws, and their relationships to Federal laws in the same field, is unclear. The decision of the Supreme Court in the Nelson case, instead of reducing the confusion, has only served to heighten it. Unless some legislative action is taken, a substantial volume of litigation may result.

Nowhere is this more apparent than in the field of labor relations. The passage by the Congress of the Wagner Act and later the Taft-Hartley Act has frequently been invoked by litigants as a bar to State action in that field. For example, the question of whether foremen were entitled to the rights enjoyed to employees was presented in the case of *Bethlehem Steel Co.* v. *New York State Labor Relations Board* (330 U. S. 767 (1947)). The Federal Board interpreting the Federal statute (the Wagner Act) had ruled that foremen were not so entitled. The State board, interpreting the State law, had determined that they were. The foremen attempted to secure an election, but when the question was presented to the Supreme Court, the Court decided that to permit concurrent State jurisdiction might "produce a mischievous conflict." Other cases indicating the same persuasion includes *Garner* v. *Teamsters* (346 U. S. 485 (1953)) and *Weber* v. *Anheuser-Busch, Inc.* (348 U. S. 468 (1955)).

However, the Court in another decision (*United Construction Workers, Etc.* v. *Laburnum Construction Corp.*, 347 U. S. 656) ruled that State courts may entertain damage suits arising out of labor disputes despite provisions in the Federal law creating a right of action for damages for certain types of unfair labor practices by unions. Another recent decision involving the right of a State to deal with picket line violence as an unfair labor practice resulted in the Supreme Court sustaining such authority (*UAW–CIO* v. *Wisconsin Employment Relations Board*, June 4, 1956).

The determination of these issues frequently turns on vague expressions of congressional intent. Where such intent is clearly stated, no problem arises. That such intent should be expressed is not in issue. The only controversy which has arisen is whether the congressional intent should be expressed in each statute involving concurrent jurisdiction or whether, as here proposed, a general statute should be adopted expressing, as congressional intent, that State laws should not be rendered inoperative unless they are in direct and positive conflict with Federal law in an area of primary Federal jurisdiction. The ad hoc method has been the procedure utilized thus far. That it has not been satisfactory should be apparent in the confusion in the labor-relations field (discussed above) and the dissatisfaction evidenced after the Nelson decision involving State sedition laws. The ad hoc procedure, resulting as it has in the related doctrines of preemption and supercession, has placed a heavy burden on the courts. The Supreme Court is often divided when called upon to divine the congressional intent. Uniformity is rationalized but not realized.

The procedure now utilized caused one Justice of the Supreme Court in a separate dissenting decision in the Cloverleaf case to remark as follows:

> To require the various agencies of the Government who are the effective authors of legislation like that now before us to express clearly and explicitly their purpose in dislodging constitutional powers of States—if such is their purpose—makes for care in draftsmanship and for responsibility in legislation. To hold, as do the majority, that paralysis of State power is somehow to be found in the vague implications of the Federal renovated butter enactments, is to encourage slipshodness in draftsmanship and irresponsibility in legislation.
>
> * * * * *
>
> The result of this decision is to deny Alabama the power to protect the health of its citizens without replacing such protection by that of the Federal Government. The Chief Justice does well to call attention to the fact that such a construction of the Renovated Butter Act gratuitously destroys the harmonious cooperation between the Nation and the States in safeguarding the health of our people. If ever there was an intrusion by this Court into a field that belongs to Congress, and which it has seen fit not to enter, this is it. And what is worse, the decision is purely destructive legislation—the Court takes power away from the States but is, of course, unable to transfer it to the Federal Government (315 U. S. 148, 178–179).

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It is the feeling of your committee after hearings by interested parties and full deliberation that the subject legislation should be reported favorably to the Senate. Enactment of the legislation will in your committee's opinion bring stability into a field of government now in a judicial chaotic state.

Attached hereto and made a part hereof is an applicable report from the Department of Justice.

JUNE 12, 1956.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 3143) to establish rules of interpretation governing questions of the effect of acts of Congress on State laws.

The bill would provide that no act of Congress shall be construed as occupying the field in which such act operates, to the exclusion of State laws on the same subject, without express provision to that effect. It would further provide that no State law shall be construed as invalidated by an act of Congress unless there is such a direct and politive conflict between an express provision of such act and such provision of the State law so that the two cannot be reconciled or consistently stand together.

There are two major considerations involved in this bill. The first involves the question of whether, in enacting a Federal statute, the Congress preempts the field in which the legislation is to operate or whether concurrent jurisdiction is to be shared with the States. The second question is, even where Congress has expressed an intention, whether Federal statutes and State statutes which are in conflict can operate in the same field.

At present the intention of the Congress to preempt a field need not be express. Rather, the courts determine the presence or absence of such intent from a consideration of the surrounding facts and circumstances. The first sentence of the bill would change this. It would require that the Congress express its intention. It provides that in the absence of such an expression the States may legislate with respect to any subject matter in those areas in which they have constitutional authority to act.

This provision as applied to existing statutes would raise serious problems. Most statutes now on the books do not contain an express provision. It would be necessary for the Congress to examine them for the purpose of determining which of them should be amended to contain an express provision "indicating an intent on the part of Congress to occupy the field" in which they operate. This examination would of necessity take a considerable period of time. During this period great confusion would be created in many areas. For instance, a railroad operating in interstate commerce and in full contormity to Federal safety requirements might find it necessary under threat of criminal punishment to conform also to wholly different standards asserted by any one or more of the States in which it operates. This would hold true even though the railroads were following court decisions, because the provision would invalidate inter-

pretations in which the courts have found from the facts and circumstances implied intentions to occupy the field by the Federal Government.

With respect to future congressional enactments the Department considers the approach of S. 3617 preferable to that of the instant bill, that is, that the present practice of determining congressional intent from surrounding circumstances be continued except with respect to specific fields in which the Congress see- fit to express its intention to preempt or not to preempt.

As to the second question, relating to the conflict between Federal and State statutes, it is anomalous to say that Congress may expressly occupy a field to the exclusion of State legislation and then say that despite such a declaration the State legislation in such a field may nevertheless operate unless there is an irreconcilable conflict. Yet the bill would evidently so provide.

With respect to the new matter contained in the committee print of May 19, 1956, your attention is invited to the favorable report of the Department of Justice on S. 3617. If the Congress is to deal specifically with the field of sedition and subversive activity, S. 3617 appears satisfactory for the purpose.

In view of the foregoing considerations, the Department of Justice is unable to recommend the enactment of the bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

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Calendar No. 2253

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2231

AUTHORIZING THE CONVEYANCE OF TRIBAL LANDS FROM THE SHOSHONE INDIAN TRIBE AND THE ARAPAHOE INDIAN TRIBE OF THE WIND RIVER RESERVATION IN WYOMING TO THE UNITED STATES

JUNE 14 (legislative day, JUNE 11), 1956.—Ordered to be printed

Mr. O'MAHONEY, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 3467]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 3467) authorizing the conveyance of tribal lands from the Shoshone Indian Tribe and the Arapahoe Indian Tribe of the Wind River Reservation in Wyoming to the United States, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

The amendment is as follows:

On page 1, strike all after the enacting clause and insert the following:

That the Shoshone Indian Tribe and the Arapahoe Indian Tribe of the Wind River Reservation are authorized to convey to the United States the tribes' interests in the 388.23 acres of land that are described in section 2 of the Act, subject to a reservation to the tribes of all minerals, including oil and gas, and mineral rights, which may be exercised only in a manner that does not interfere with the construction and operation of the dam site and reservoir of Anchor Dam, a part of the Owl Creek unit, Missouri River Basin project in Hot Springs County, near Thermopolis, Wyoming. If the tribes fail to agree to such conveyance within thirty days after the date of this Act, the Secretary is directed to acquire such land by eminent domain. The consideration payable to the tribes pursuant to eminent domain proceedings, if such should be necessary, shall be paid out of funds appropriated for the Missouri River Basin project and shall be deposited in the Treasury of the United States to the credit and for the use of the respective tribes in accordance with the provisions of the Act of May 19, 1947 (61 Stat. 102), as amended.

SEC. 2. The lands that are referred to in section 1 of this Act are: Lots 1 and 2, section 13, northwest quarter, north half southwest quarter, west half northeast quarter, and northwest quarter southeast quarter, section 24, township 8 north, range 1 west, Wind River meridian, Wyoming, containing 388.23 acres.

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SEC. 3. In the event of the failure or abandonment of the Anchor Dam feature of the Owl Creek unit the interest in the land acquired pursuant to this Act shall be reconveyed by the Secretary of the Interior to the tribes and the title shall be held in the same manner it was held before such acquisition: *Provided*, That the sum of the award in the eminent domain proceedings, if any, paid by the United States shall be returned by the tribes.

SEC. 4. If the Shoshone and Arapahoe Tribes make the conveyance authorized by the first sentence of section 1 of this Act, no part of the construction costs of the Owl Creek unit shall be allocated to the irrigable lands of the Shoshone and Arapahoe Tribes of the Wind River Reservation or against the tribes, and the portion of such construction costs that would be so allocated except for this Act shall be nonreimbursable. The irrigable lands of the tribes shall be entitled to their pro rata share of the water storage and regulation benefits accruing from the construction and operation of the Owl Creek unit upon payment by the tribes, under appropriate contract, of their pro rata share of the annual operation and maintenance costs of the Owl Creek unit.

SEC. 5. The members of the Shoshone and Arapahoe Tribes shall have the right to fish on the lake created by Anchor Dam, without a State license, but the Indians shall be subject to all other provisions of applicable conservation laws and regulations.

EXPLANATION OF THE BILL

The purpose of S. 3467, as amended, is to provide the authority for the Shoshone and Arapahoe Tribes of the Wind River Reservation in Wyoming to convey the United States all of the tribes' interests in 388.23 acres of land required for the dam site and reservoir of the Anchor Dam, which is a part of the Owl Creek unit, Missouri River Basin project. All minerals, including oil and gas, in the lands to be conveyed are reserved to the tribes.

The bill also provides that if the tribes fail to agree to the conveyance of the lands to the United States within 30 days after the date of this act, that the Secretary of the Interior shall acquire the lands by eminent domain proceedings. In the event the eminent domain proceeding is necessary, the consideration payable to the Indians will be paid out of funds appropriated for the Missouri River Basin project and deposited in the Federal Treasury to the credit and for the use of the respective tribes, in accordance with the act of May 19, 1947 (61 Stat. 102), as amended.

If the United States should fail to construct the Anchor Dam, or should abandon the project, the interest in the land acquired by S. 3467 will be reconveyed to the Indians by the Secretary of the Interior, and the title will be held in the same manner it was held before its acquisition. Moreover, if there is an eminent domain proceeding, any award made to the tribes will be returned to the United States.

Section 4 of the bill provides that if the tribes convey the lands as set forth in section 1, no part of the construction costs of the Owl Creek unit shall be allocated to the irrigable tribal lands, or against the tribes, and the portion of the construction cost that would ordinarily be allocated against the land will be nonreimbursable. Provision is made for the tribes to obtain their pro rata share of the water-storage benefits upon payment of their share of the annual operation and maintenance costs of the Owl Creek unit. Section 5 gives the Shoshone and Arapahoe Tribes the right to fish on the reservoir created by the Anchor Dam without a State fishing license, but subjects the Indians to all other provisions of State conservation laws and regulations. Both the Indians and officials of the State of Wyoming have agreed on this provision.

NEED FOR THIS LEGISLATION

Passage of S. 3467 will resolve an impasse between the Shoshone and Arapahoe Tribes, owners of the Wind River Reservation, on the one hand and the Bureau of Reclamation on the other, which has caused a delay in the construction of the Anchor Dam project in Hot Springs County, Wyo.

The Government will require about 967.94 acres for the dam structure, the reservoir and appurtenant works. Of this, about one third, 388.23 acres, is a part of the reservation and belongs to the tribes. This is critical acreage because it includes part of the dam site itself. The Bureau of Reclamation desires to acquire the acreage from the tribes and would also like to have the tribes participate in the project since the tribes own about one-seventh (2,300 acres) of the 16,000 acres of land the project is designed to benefit. This 2,300 acres is a part of the Padlock or Arapahoe Ranch.

The Bureau of Reclamation has been active in the consideration and development of the Anchor Dam project for many years. Beginning in 1941, it prepared a report concerning the project, followed by reports in 1942, 1944, 1946, 1947 (four reports) and 1948. Finally, in 1949, it produced a detailed report on the project, which was revised in 1950. Based on 1949 estimates, the project will cost about $3,532,150. Two-thirds of this cost is paid out of surplus power revenues of the Missouri River Basin project. Reclamation expects to collect the remaining one-third, about $1,049,680, from the Owl Creek Irrigation District ($930,760) and the tribes ($118,920).

Although the tribes question the economic feasibility of the project from their standpoint, yet the tribes wish to cooperate with their neighbors in having the facility constructed.

The Department of the Interior report on S. 3467, as introduced, recommends that the construction charges allocated to the Indian lands be made a lien on the lands under the provision of the Leavitt Act of July 1, 1932 (47 Stat. 564). Under that act, the costs would be deferred as long as the lands remain in Indian ownership. The tribes are unalterably opposed to having a lien on their land because it will freeze the land in its present tribal status. The land is part of the Padlock Ranch, a tribal stockraising enterprise. The ranch, in the future, may be divided into family-size units and allotted to individual Indian members of the tribes. An overhanging lien would discourage ownership and control by individual Indians under such circumstances. Moreover, the Shoshone Tribe would receive no benefit from the project. The Shoshones own half the land but the benefit of the operation of the project would accrue to the Arapahoe Tribe which operates Padlock Ranch. The Shoshones do not want their interest encumbered.

Hearings were held on S. 3467 by the Subcommittee on Indian Affairs. Delegates from the Shoshone and Arapahoe Tribes, together with their counsel, and representatives of the Owl Creek Irrigation District, testified in support of the bill as amended. Under this measure, the Indians waive all rights for payment of the land taken from them for the purposes of the reservoir, whether by condemnation or otherwise. Moreover, they have given assurance of their willingness to convey these lands to the United States within 30 days after the enactment of the legislation. In consideration of this action on the part of the Indians, construction charges amounting to $118,920

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during the 50 year period provided for the irrigation project are waived. The present day value of such charges paid over a period of 50 years is computed at approximately $48,000. While it is true that the value of the land in question is considerably less than that sum, still the committee feels that the expeditious commencement of construction of the project, upon which the United States has already invested several hundred thousand dollars, is desirable. Nor is the committee unmindful of the fact that the Federal Government has, in the past, dealt generously with its Indian wards in obtaining their lands.

The reports of the Department of the Interior and the Bureau of the Budget on S. 3467 are as follows:

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

MY DEAR SENATOR MURRAY: Your committee has requested a report on S. 3467, a bill to authorize the conveyance of tribal lands from the Shoshone Indian Tribe and the Arapahoe Indian Tribe of the Wind River Reservation in Wyoming to the United States.

We recommend that the bill be not enacted in its present form, but we recommend the enactment of the substitute draft bill that is enclosed with this report.

1. The bill authorizes the Shoshone Indian Tribe and the Arapahoe Indian Tribe of the Wind River Reservation in Wyoming to convey to the United States so much of their land as is required for the dam site and reservoir of the Anchor Dam, which is a part of the Owl Creek unit, Missouri River Basin project. As compensation for the conveyance the United States would be required to provide the tribes with their pro rata share of the water storage and regulation benefits accruing from the construction and operation of the Owl Creek unit without assessing the tribes any part of the construction cost of the unit.

The construction costs attributable to the irrigable lands of the tribes that will receive water from Anchor Dam are about $118,920.

The 388.23 acres of tribal land that would be conveyed to the United States as a part of the land required for the dam site has been appraised by two local appraisers at $7,765.

We believe that the tribes should be paid the fair value of the land that is required by the United States as a portion of the site for the dam, but that instead of relieving the tribes (as participating users of the stored water) of the construction costs allocable to their lands those construction costs should be deferred in accordance with the provisions of the Leavitt Act of July 1, 1932 (47 Stat. 564), as long as the lands remain in Indain ownership. The tribes' share of the water will be used for the irrigation of the tribally owned Arapahoe Ranch. In connection with Indian irrigation projects it has been the consistent policy of the Government to make the construction costs liens against the Indian lands, but to defer the assessment and collection of those costs until after the lands pass out of Indian ownership. We are aware of no justification for relieving the Shoshone and Arapahoe Tribes entirely of those costs while other Indians in similar circusmtances are given only a deferment of such costs. Anchor Dam is not a part of an Indian irrigation project, and in order to make the Leavitt Act applicable to it the pending legislation will need to make specific provisions to that effect.

2. The bill authorizes the tribes to convey to the United States the land needed for the dam site only after the approval of a majority of the adult members of each tribe who are present at a general council meeting called by the tribe for the purpose. Inasmuch as the irrigation project has been authorized by Congress and the acquisition of land for the dam site is an essential part of the project, the tribes should not be placed in a position to nullify the will of Congress by withholding their approval for the conveyance of the land. The tribes should be placed in the same position as any other landowner. That is, they should be authorized to sell their land for a fair price mutually agreeable to them and to the purchaser (congressional authorization to sell tribal land is required), but if a fair price cannot be negotiated the Secretary should be directed to initiate condemnation proceedings in order that a fair price may be determined by the courts. That is the procedure followed in connection with the acquisition of land owned by non-Indians.

It is highly important that the construction of the project not be delayed by any difference of opinion that may arise about the fair value of the land when the normal judicial processes are available to determine such value.

3. The bill gives the members of the tribes the right to fish on the lake created by Anchor Dam as if it were within the exterior boundaries of the reservation. We understood that this provision is intended to give the Indians exclusive fishing rights without regard to any applicable Federal or State conservation statutes. Only a portion of the lake will be located within the reservation, and we are aware of no justification for depriving non-Indians of fishing rights on the reservoir. Moreover, we recommend that the Indians be given the right to fish without obtaining a license, but that they should otherwise comply with the conservation laws and regulations.

4. The bill limits the tribal land to be conveyed to the United States to land required for the dam site and lying 300 feet horizontally from elevation 6,451.5 feet which is the maximum water surface of the proposed reservoir. The 6,451.5 elevation designated in the bill is the maximum water surface elevation for a concrete dam which is no longer proposed for construction. The maximum water surface elevation with an earth-filled dam which is now proposed for construction will be 6,460.5 feet. However, we believe that the lands required for the dam and reservoir should be described by legal subdivisions as follows: Lots 1 and 2, sec. 13, NW¼, N½SW¼, W½NE¼, and NW¼SE¼, sec. 24, T. 8 N., R. 1 W., Wind River meridian, Wyoming, containing 388.23 acres.

5. The bill provides that title to the tribal land conveyed to the United States will revert to the tribe if Anchor Dam is not constructed or is abandoned. Such reversion should be conditioned upon a return of the purchase price.

There is enclosed for your consideration a substitute draft bill that will carry out the foregoing recommendations.

The Bureau of the Budget has advised us that there is no objection to the submission of this report to your committee.

Sincerely yours,

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

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SUBSTITUTE DRAFT BILL FOR S. 3467

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Shoshone Indian Tribe and the Arapahoe Indian Tribe of the Wind River Reservation are authorized to convey to the United States the tribes' interests in the 388.23 acres of land that are described in section 2 of the Act, subject to a reservation to the tribes of all minerals, including oil and gas, and mineral rights, which may be exercised only in a manner that does not interfere with the construction and operation of the dam site and reservoir of Anchor Dam, a part of the Owl Creek unit, Missouri River Basin project in Hot Springs County, near Thermopolis, Wyoming. The conveyance shall be for a price that is mutually agreeable to the tribes and to the Secretary of the Interior, based upon the fair market value of the land. If the tribes and the Secretary are unable to agree upon a fair price, the Secretary is directed to acquire such land by eminent domain. The consideration payable to the tribes pursuant to this Act shall be paid out of funds appropriated for the Missouri River Basin project and shall be deposited in the Treasury of the United States to the credit and for the use of the respective tribes in accordance with the provisions of the Act of May 19, 1947 (61 Stat. 102), as amended by the Act of August 30, 1951 (65 Stat. 208).

SEC. 2. The lands that are referred to in section 1 of this Act are: Lots 1 and 2, section 13, northwest quarter, north half, southwest quarter, west half, northeast quarter, and northwest quarter southeast quarter, section 24, township 8 north, range 1 west, Wind River meridian, Wyoming, containing 388.23 acres.

SEC. 3. In the event of the failure or abandonment of the Anchor Dam feature of the Owl Creek unit the interest in the land acquired pursuant to this Act shall be reconveyed by the Secretary of the Interior to the tribes and the title shall be held in the same manner it was held before such acquisition: *Provided*, That the purchase price paid by the United States shall be returned by the tribes.

SEC. 4. The portion of the construction costs of the Owl Creek unit that is allocable to the irrigable lands of the Shoshone and Arapahoe Tribes of the Wind River Reservation shall be a lien against such lands, but the assessment and collection of such costs shall be deferred in accordance with the provisions of the Act of July 1, 1932 (47 Stat. 564). The irrigable lands of the tribes shall be entitled to their pro rata share of the water storage and regulation benefits accruing from the construction and operation of the Owl Creek unit upon payment by the tribes, under appropriate contract, of their pro rata share of the annual operation and maintenance costs of the Owl Creek unit.

SEC. 5. The members of the Shoshone and Arapahoe Tribes shall have the right to fish on the lake created by Anchor Dam, without a license, as if the lake were within the exterior boundaries of the Wind River Reservation, but the Indians shall be subject to all other provisions of applicable conservation laws and regulations.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., May 18, 1956.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Bureau concerning S. 3467, to authorize the conveyance of tribal lands from the Shoshone Indian Tribe and the Arapahoe Indian Tribe of the Wind River Reservation in Wyoming to the United States.

The main purpose of the bill is to authorize the Indian tribes named to convey to the United States certain tribal land needed in connection with the Anchor Dam, a part of the Owl Creek unit of the Missouri River Basin project. The bill outlines certain conditions as a part of the consideration of the transfer of title.

The Department of the Interior, in a report which will be presented to your committee, recommends against enactment of the measure as introduced and suggests a substitute bill. Each of the Department's several objections are fully explained in the report.

After reviewing the matter, as presented by the Department, this Bureau concurs in its conclusions, and recommends enactment of the proposed substitute bill.

Sincerely yours,

ROBERT E. MERRIAM,
Assistant to the Director.

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Calendar No. 2254

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2232

ANNUAL CENSUS OF TEXTILE LOOMS

JUNE 14 (legislative day, JUNE 11), 1956.—Ordered to be printed

Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany S. 2881]

The Committee on Post Office and Civil Service, to whom was referred the bill (S. 2881) to direct the Secretary of Commerce to collect and publish annually statistics as to the number of certain types of textile looms in place and in operation on a State-by-State basis, having considered the same, report favorably theron, without amendment, and recommend that the bill do pass.

STATEMENT

The bill provides that the Secretary of Commerce collect and publish annually, by States, statistics on the number of cotton, synthetic, wool, and blended textile looms in place and in operation.

Statistical data of the kind to be provided would be helpful to many States wherein there is a density of textile mills. The lack of such data has had an adverse effect on the economy of such States under certain circumstances.

The cost of collecting and providing the data would be small as compared with the benefits to be derived.

AGENCY VIEWS

Following are agency views on the bill:

THE SECRETARY OF COMMERCE,
Washington 25, D. C., March 9, 1956.

Hon. OLIN D. JOHNSTON,
Chairman, Committee on Post Office and Civil Service,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: This letter is in reply to your request of January 18, 1956, for the views of this Department with respect to S. 2881, a bill to direct the Secretary of Commerce to collect and publish annually statistics as to the number of certain types of textile looms in place and in operation on a State-by-State basis.

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The bill would direct the Secretary of Commerce to publish annually statistics as to cotton, synthetic, wool, and blended textile fiber looms by States.

This Department recommends against enactment of S. 2881.

The enactment of legislation directing the collection of statistics in a narrow area would constitute a directive that such statistics were to receive higher priority than the collection of statistics not so specifically mentioned.

This Department would, therefore, be unable to shift the emphasis of its census programs from time to time in order to insure that at all times the data collected are those most useful to the economy. In this connection, it is our opinion that State-by-State statistics as to the number of textile looms in place and in operation are not as important as are other statistics in the textile and apparel industries which would have a lower priority if S. 2881 were enacted.

For these reasons, the Department recommends against enactment of S. 2881.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this report to your committee.

Sincerely yours,

SINCLAIR WEEKS, *Secretary of Commerce.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., March 7, 1956.

Hon. OLIN D. JOHNSTON,
Chairman, Senate Post Office and Civil Service Committee,
United States Senate, Washington, D. C.

MY DEAR SENATOR JOHNSTON: This is in reply to your request of January 18 for the views and comments of this Bureau with respect to S. 2881, a bill to direct the Secretary of Commerce to collect and publish annually statistics as to the number of certain types of textile looms in place and in operation on a State-by-State basis.

The bill provides that the Secretary of Commerce be directed to collect and publish annually, by States, statistics on the number of textile looms in place and in operation in terms of the following types: Cotton, synthetic, wool, and blended.

The Secretary of Commerce now has authority to collect annual statistics on textile looms; this bill would make the collection compulsory. We believe that needs for statistical data would be better served if the Bureau of the Census is in a position to collect those data which are determined on a current basis to be most useful. In addition, we question the desirability of incorporating in the law a classification of types of looms which may become inapplicable as a result of rapid technological change.

For these reasons, the Bureau of the Budget recommends against enactment of S. 2881.

Sincerely yours,

PERCY RAPPAPORT, *Assistant Director.*

COMPTROLLER GENERAL OF THE UNITED STATES,

Washington 25, D. C., January 27, 1956.

Hon. OLIN D. JOHNSTON,
Chairman, Committee on Post Office and Civil Service,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your letter dated January 18, 1956, acknowledged January 20, requesting our views and comments on S. 2881, 84th Congress, 2d session, entitled a bill to direct the Secretary of Commerce to collect and publish annually statistics as to the number of certain types of textile looms in place and in operation on a State-by-State basis.

The General Accounting Office has no information relative to the need for or desirability of the proposed legislation. As written, we find nothing therein which would create any accounting difficulties, and we therefore make no recommendation to your committee with respect to the merits of the bill.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

Subchapter 3 of chapter 3 of title 13 of the United States Code, as amended, is amended by adding after section 103 a new section, as follows:

104. Statistics on textile looms in place and in operation

(a) The Secretary is authorized and directed to collect and publish annually statistics as to the number of the following types of textile looms in place and in operation on a State-by-State basis: (1) Cotton, (2) synthetic, (3) wool, and (4) blended. Such statistics shall be published in bulletin form and distributed in such manner as may be directed by the Secretary.

(b) The Secretary is authorized to make such rules and regulations as he deems necessary to carry out the provisions of this section.

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Calendar No. 2255

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2233

SPECIAL CANCELING STAMP FOR MAIL

JUNE 14 (legislative day, JUNE 11, 1956.—Ordered to be printed

Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany S. 3215]

The Committee on Post Office and Civil Service, to whom was referred the bill (S. 3215) authorizing the Postmaster General to provide for the use of special canceling stamps or postmarking dies in order to encourage registration for voting in general elections, having considered the same, report favorably thereon without amendment, and recommend that the bill do pass.

STATEMENT

The purpose of this legislation is to encourage the general public on a continuing basis during election years to register, so that a greater number will be qualified to vote in the general election.

The general apathy of the public toward our national elections has long been of concern to both major political parties and to all who are interested in a more representative government. It is believed that public notice of the type proposed in this legislation will have a worthwhile effect on the general public.

AGENCY VIEWS

Following are views of the Post Office Department and the Bureau of the Budget:

OFFICE OF THE POSTMASTER GENERAL,
Washington, D. C., May 15, 1956.

Hon. OLIN D. JOHNSTON,
Chairman, Committee on Post Office and Civil Service,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your request for a report on S. 3215 which would authorize the Postmaster General

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to provide a special canceling stamp or postmarking die bearing the legend "Are you registered to vote?" for use in each first- and second-class post office during the period beginning on February 1 and ending on September 30 of each even-numbered year.

This is neither the first time nor the first administration in which the Department has been called on to consider problems related to the role that might be played by the Post Office Department in urging the public to register and vote. In 1952, a bill was introduced in the House of Representatives to authorize the use of special canceling stamps to encourage voting in general elections. The legislation did not pass partly on grounds of adding to the cost of operating the postal service and partly because of a fear that the Department which controls an important means of communication should not also be a department which influences public opinion.

It is estimated that the cost of furnishing only one specail die or stamp for use at each of the 10,248 first- and second-class post offices would be about $250,000. There are from 1 to 200 canceling machines at each first-class post office. To impress the legend "Are you registered to vote?" on all mail passing through the post offices of the first class, it would be necessary to supply the special dies for use in all canceling machines at such offices. This would result in a considerable increase in cost to the Department, with resultant increase in the postal deficit.

In view of the foregoing, this Department does not recommend the enactment of S. 3215.

The Bureau of the Budget has advised that there would be no objection to the submission of this report to the committee.

Sincerely yours,

(Signed) MAURICE H. STANS,
Deputy Postmaster General.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., May 8, 1956.

Hon. OLIN D. JOHNSTON,
Chairman, Committee on Post Office and Civil Service,
United States Senate Office Building,
Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in reply to your letter of February 18, 1956, requesting the views of the Bureau of the Budget with respect to S. 3215, a bill authorizing the Postmaster General to provide for the use of special canceling stamps or postmarking dies in order to encourage registration for voting in general elections.

The purpose of this legislation is to urge the general public to register and vote. This would be accomplished by authorizing the Postmaster General to provide special canceling stamps or postmarking dies, bearing the legend "Are you registered to vote?," for use at each first- and second-class post office during the period February 1 through September 30 of each even numbered year.

There are 10,248 first- and second-class post offices, and if the Department were to provide each of these offices with at least one die, it would cost approximately $250,000. However, the number of

canceling machines in use per office varies anywhere from 1 to 200, depending upon the volume of mail processed in each. Therefore, the purchase price of the special postmarking dies and stamps needed to insure complete coverage would be substantially more than $250,000.

In view of the fact that this legislation would result in a considerable increase in the postal deficit, the Bureau of the Budget recommends against the enactment of this measure.

Sincerely yours,

(Signed) PERCY RAPPAPORT,
Assistant Director.

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UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 2256

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2234

IMPOUNDING OF MAIL IN CERTAIN CASES

JUNE 14 (legislative day, JUNE 11), 1956.—Ordered to be printed

Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H. R. 9842]

The Committee on Post Office and Civil Service, to whom was referred the bill (H. R. 9842) to authorize the Postmaster General to hold and detain mail for temporary periods in certain cases, having considered the same, report favorably thereon with an amendment, and recommend that the bill as amended do pass.

AMENDMENT

On page 2, line 11, strike out the word "for" and insert the words "and obtain".

The purpose of the amendment is to remove a possible ambiguity in the phrasing of the bill. Both the Post Office Department and the American Bar Association agree that removal of the ambiguity is desirable and endorse completely the committee amendment.

PURPOSE

This legislation will assist the Post Office Department in its effort to prevent the use of the United States mail for fraudulent purposes or for the transmission of obscene and indecent pictures or printed matter.

House Report No. 2073 comments on this legislation as follows:

> This legislation will not create any new crime or penalty. It will not broaden the scope of articles which are presently nonmailable. The sole effect of this legislation is to protect the public through improved procedures made available to the Postmaster General until a final determination can be made in each case of alleged improper use of the mails.

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When proceedings have been instituted under existing law against any person for use of the mails for such unlawful purposes and the Postmaster General determines it necessary to enforce the law, he is authorized by this legislation to issue an interim order directing the impounding of mail addressed to any person against whom such proceedings have been instituted.

Notice of the interim order, setting forth the reasons for impounding, and a copy of this legislation, must be sent forthwith by registered or certified mail to the person whose mail will be impounded. The impounding order will expire after 20 days unless the Postmaster General, before the end of the 20 days, petitions the appropriate United States district court for an order continuing the impounding for such further period as the court shall determine. Notice of the petition must be given forthwith to the person whose mail is impounded, who will have 5 days to appear and show cause why a court order continuing the impounding should not issue.

If the court determines that continuance of the impounding is reasonable and necessary to the enforcement of the law under which proceedings have been instituted, it will issue an order directing that the impounding be continued until the proceedings are completed or until further order of the court. If the court determines that continuance of the impounding order is not reasonable or necessary in the administration of such law, it will dismiss the petition and order delivery of all mail addressed to the person whose mail is being impounded. An appeal will lie from the order of the court, as in civil cases.

Any order of the Postmaster General or the court may be dissolved by the court at any time for cause, including failure to conduct expeditious proceedings which have been instituted under existing law.

Any person whose mail is impounded will have the right to examine and receive any part of his mail which clearly is not connected with the alleged unlawful activity.

This legislation is urgently needed to check the growing use of the United States mails for the distribution of obscenity and pornography, schemes to defraud the public, and gambling devices such as lotteries and chance drawings. * * * it is quite common for persons charged with mailing pornographic materials to openly advertise that their obscene wares are all the more desirable because they have been banned from the mails. Procedural delays provide them with sufficient time to capitalize on this insolent practice. The situation has resulted in a veritable flood of salacious literature, pornography, and other nonmailable articles being sent through the mails to children and adolescents as well as adults.

STATEMENT

The committee recognizes that even in its present form the bill gives the Postmaster General extraordinary and summary powers to impose a substantial penalty by impounding a person's mail for up to 20

days in advance of any hearing or any review by the courts. Such power is directly contrary to the letter and spirit of normal due process, as exemplified by the Administrative Procedure Act, which requires a hearing before any penalty may be imposed. The Post Office Department has made its case for this legislation on the grounds that a temporary and summary procedure is required to deal with fly-by-night operators using the mails to defraud or to peddle pornography, who may go out of business—or change the name of their business or their business address—before normal legal procedures can be brought into operation. The Post Office Department has not recommended, nor does this committee approve, the use of the temporary impounding procedure under this bill as a substitute for the normal practice of an advance hearing or the bringing of an indictment for violation of the criminal code in all cases involving legitimate and well-established business operations. The committee would not approve the use of the extraordinary summary procedure under the bill against legitimate publishers of newspapers, magazines, or books in cases in which a Postmaster General might take objection to an article, an issue, or a volume. There is, and long has been, sufficient provision in existing law for dealing with situations of this kind involving established publishing firms.

Letters from the Post Office Department and the American Bar Association follow:

POST OFFICE DEPARTMENT,
OFFICE OF THE SOLICITOR,
Washington, D. C., June 13, 1956.

Hon. OLIN D. JOHNSTON,
Chairman, Committee on Post Office and Civil Service,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: Reference is made to H. R. 9842, a bill authorizing the Postmaster General to hold and detain mail for temporary periods, and to correspondence addressed to you by William I. Denning, chairman, committee on postal matters, American Bar Association, dated May 29, 1956.

From the very outset it had been my view that the provisions of H. R. 9842 were such as to require the Post Office Department to procure a court order extending the Postmaster General's interim order within the 20-day period specified in the bill. Failure to procure such an order before the 20th day would result in a termination of the Postmaster General's interim order.

In my letter to the chairman of the House Committee on Post Office and Civil Service of the House of Representatives dated April 1, 1956, this statement appears:

"The bills specifically limit these orders to a period of 20 days."

Under the circumstances, the Department has no objection to removing the alleged ambiguity in this bill by inserting as suggested by Mr. Denning, the words "and obtain" between the words "for" and "an" in line 11 of H. R. 9842, as it passed the House of Representatives on May 7, 1956. This insertion will make it abundantly clear that the Postmaster General's interim order will expire at the end of 20 days unless the court having jurisdiction has extended the order.

Sincerely yours,

ABE MCGREGOR GOFF, *The Solicitor.*

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AMERICAN BAR ASSOCIATION,
SECTION OF ADMINISTRATIVE LAW,
May 29, 1956.

Hon. OLIN D. JOHNSTON,
Chairman, Committee on Post Office and Civil Service,
United States Senate, Washington, D. C.

MY DEAR SENATOR JOHNSTON: Subsequent to the action by the House of Representatives on H. R. 9842, a possible ambiguity in the phrasing of the bill was brought to our attention. The ambiguity may easily be clarified in conformity with the plain intent of the bill and our association's resolution by the following minor change: in line 12 on page 2, of H. R. 9842 as reported to the House (Union Calendar No. 753), strike the word "for" and substitute the words "and obtain". The pertinent provision of the bill would read:

"* * * Any such order for the holding and detention of mail addressed to any person shall expire at the end of the twenty days after the issuance thereof unless the Postmaster General shall file, prior to the expiration of such twenty-day period, a petition in the United States district court for the district in which the post office in which such mail is held or detained is situated, ~~for~~ *and obtain* an order directing that mail addressed to such person be held and detained for such further period as the court shall determine."

Very truly yours,

WILLIAM I. DENNING,
Chairman, Committee on Postal Matters.

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Calendar No. 2257

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2235

CONTROL AND REDUCTION OF ARMAMENTS

JUNE 14 (legislative day, JUNE 11), 1956.—Ordered to be printed

Mr. HUMPHREY, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany S. Res. 286]

The Committee on Foreign Relations having had under consideration a proposal to extend the time of the filing a report under Senate Resolution 185 from July 1, 1956, to January 31, 1957, inclusive, report without objection an original resolution for that purpose and recommend that it do pass.

REASONS FOR THE RESOLUTION

The Subcommittee on Disarmament created pursuant to Senate Resolution 93 (84th Cong., 1st sess.) and extended under Senate Resolution 185 (84th Cong., 2d sess.) has been engaged in an extensive inquiry into the question of control and reduction of armaments. The subcommittee has held eight hearings, has engaged in correspondence with interested citizens and otherwise pursued the study of this question. However, it has not yet completed "the full and complete study" as directed by the Senate.

The subcommittee recommended to the Foreign Relations Committee, therefore, that it be extended until January 31, 1957. At that time, the subcommittee expects to be in a position to submit a final report.

A budget to cover the expenses of the subcommittee from July 1, 1956, to January 31, 1957, is appended to this report.

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Committee on Foreign Relations, Subcommittee on Disarmament (created pursuant to S. Res. 93, 84th Cong., 1st sess., as extended by S. Res. 185, 84th Cong., 2d sess.), Budget, July 1, 1956, to Jan. 31, 1957

Position	Number	Base salary (per annum)	Gross salary (per annum)	Monthly salary (gross)	Total for period of budget (gross)
Staff:					
Legal and investigative:					
Staff director	[1] 1	$7,080	$13,587	$1,132.25	$7,925.75
Special counsel (consultant)	1	6,300	11,091	924.25	6,469.75
Editorial and research: Research assistants	[1] 2	4,080	7,584	632.00	8,848.00
Administrative and clerical: Assistant clerks (secretaries)	[1] 2	2,040	4,090	340.83	4,771.62
Subtotal, staff expense					28,015.12
Administrative:					
Reimbursable payments to agencies (additional to above salaries as indicated)					5,000.00
Travel (inclusive of field investigations)					5,000.00
Hearings (inclusive of reporters' fees)					2,000.00
Witness fees, expenses					500.00
Stationery, office supplies					300.00
Communications, (telephone and telegraph)					200.00
Newspapers, magazines, documents					500.00
Contingent fund					484.88
Subtotal, administrative expense					13,984.88
Total					42,000.00
Estimated carryover from funds authorized but not expended, Feb. 1-July 1, 1956					10,000.00
New funds required					32,000.00

[1] The staff director, 1 research assistant and 1 assistant clerk are on reimbursable detail from the Library of Congress.

This resolution would make the following changes in S. Res. 185, agreed to by the Senate on February 8, 1956:

Resolved, That the subcommittee (as authorized and directed by Senate Resolution 93 of the Eighty-fourth Congress, first session, agreed to July 25, 1955) of the Committee on Foreign Relations is authorized under sections 134 (a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with the jurisdiction of the Committee on Foreign Relations specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of any and all matters pertaining to the international control and reduction of armaments, as further described in Senate Resolution 93, Eighty-fourth Congress.

SEC. 2. For the purposes of this resolution the committee, from February 1, 1956, to [July 1, 1956] *January 31, 1957*, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than [July 1, 1956] *January 31, 1957*.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed [$35,000] *$67,000*, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

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Calendar No. 2258

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2236

LEGISLATIVE APPROPRIATION BILL, 1957

JUNE 14 (legislative day, JUNE 11), 1956.—Ordered to be printed

Mr. CLEMENTS, from the Committee on Appropriations, submitted the following

REPORT

[To accompany H. R. 11473]

The Committee on Appropriations, to whom was referred the bill (H. R. 11473) making appropriations for the legislative branch for the fiscal year ending June 30, 1957, and for other purposes, report the same to the Senate with various amendments and present herewith information relative to the changes made.

Amount of bill as passed House	$89,376,450
Amount of increase by Senate committee	28,427,608
Amount of bill as reported to Senate	117,804,058
Amount of appropriations, 1956	103,151,707
Amount of regular and supplemental Budget estimates for 1957	122,496,933
The bill as reported to the Senate—	
Under the estimates for 1957	4,692,875
Over the appropriations for 1956	14,652,351

GENERAL STATEMENT

The bill provides for the legislative branch $117,804,058, which is $28,427,608 in excess of the amount proposed by the House, $4,692,875 under the budget estimates, and $14,652,351 over the appropriations

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for the fiscal year 1956. The large increase over the House bill is due to the fact that following the practice adopted by the House no action was taken by that body on purely Senate items. This accounts for $28,404,315 of the increase.

Office of the Secretary

The following paragraph included in the bill by the committee indicates the changes effected in this office:

OFFICE OF THE SECRETARY

For Office of the Secretary, $572,915: Provided, That effective July 1, 1956, the compensation of the Chief Clerk and Parliamentarian of the Senate shall be $15,500 gross per annum each in lieu of $8,820 basic per annum each; and the basic annual compensation of the following positions shall be: Legislative clerk, $7,620 in lieu of $7,260; journal clerk, $7,620 in lieu of $7,260; Assistant Parliamentarian, $7,620 in lieu of $7,260; keeper of stationery, $6,060 in lieu of $5,580; librarian, $6,060 in lieu of $5,580; superintendent, document room, $6,060 in lieu of $5,580; secretary to Parliamentarian, $3,240 in lieu of $3,000; assistant journal clerk, $3,240 in lieu of $3,060; assistant bill clerk, $3,240 in lieu of $3,000; assistant executive clerk, $3,240 in lieu of $3,000; and custodian of records, $3,240 in lieu of $3,000.

Office of the Sergeant at Arms

The committee recommendations with respect to the activities and services under the Sergeant at Arms are contained in the following language included in the bill:

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For office of Sergeant at Arms and Doorkeeper, $1,755,770: Provided, that effective July 1, 1956, the basic annual compensation of the following positions shall be: Secretary, $2,760 in lieu of $2,520; clerk, $2,880 in lieu of secretary, $2,460; chief telephone operator, $3,180 in lieu of $3,000; three assistant chief telephone operators at $2,580 each in lieu of $2,460 each; twenty-six pages at $1,800 each in lieu of twenty-four pages at $1,800 each; seventy-nine privates, police force, at $2,160 each in lieu of seventy-five privates, police force, at $2,160 each; postmaster, $6,060 in lieu of $5,580; chief clerk, post office, $2,760 in lieu of $2,660; thirty mail carriers at $2,100 each in lieu of twenty-eight mail carriers at $2,100 each; superintendent, periodical press gallery at $4,740 in lieu of $4,320; clerk-stenographer, service department at $2,160 in lieu of clerk-typist at $1,920; chief machine operator at $2,880 in lieu of $2,760; foreman of duplicating department at $3,180 in lieu of $2,880; two offset press operators at $2,580 each and one offset press operator at $2,340 in lieu of three offset press operators at $2,340 each; two messengers at pass door at $2,400 each; superintendent of mails at $2,400; superintendent, Press Photographers Gallery at $4,020; night supervisor, service department at $2,700; senior Addressograph operator at $2,400 and five Addressograph operators at $2,160 each in lieu of four Addressograph operators at $2,160 each; seven messengers at $1,740 each in lieu of six messengers at $1,740 each; five inserting machine operators at $1,980 each; two photostat operators at $2,400 each in lieu of one photostat operator at $2,400; four laborers at $1,620 each in lieu of three laborers at $1,620 each; auditor, $2,220; administrative assistant $7,320; director, recording studio, $7,020; director of photography, $5,100; chief sound engineer, $4,080; laboratory supervisor, $4,020; cameraman, $3,600; film and radio recording engineer, $3,120; shipping and stock clerk, $1,800; traffic manager, $2,520; production assistant, $3,420; editor and printer, $3,000; administrative officer, $3,780; and projectionist, film inspector, $2,280.

Longevity

The committee considered recommendations respecting longevity provisions for employees of the Senate. The committee is of the opinion that the basic principle involved in such a proposal is sound

and has directed that a study should be made to be presented to the committee when it considers legislative appropriations for the fiscal year 1958.

Salaries in Senators' Offices

Language has been included in the bill authorizing readjustment of salaries in a Senator's office. Under the committee language in addition to 1 employee at $14,800 and 1 at $14,301, 1 employee could be paid at a gross rate of $13,677, provided funds were available. No change was made in the total amount of funds made available for a Senator's office.

Offices of the Majority and Minority Whip

For the offices of the majority and minority whip, the committee recommends an appropriation of $20,045 to provide clerical assistants to be paid at a rate not to exceed $5,580 basic per annum. The amount recommended is an increase of $3,640 over the appropriation for the current fiscal year.

Senate Policy Committees

The committee recommends an appropriation of $105,000 for each of the Senate policy committees for necessary salaries and expenses.

Joint Committee on Atomic Energy

The committee recommends the full amount of the budget estimate of $222,775 for this committee. Language has been included in the bill authorizing the payment of additional compensation in the amount of $825 per annum for compiling and preparing year-end reports.

Joint Committee on Printing

For the Joint Committee on Printing, the committee recommends an appropriation of $63,185, including $1,600 for compiling, preparing, and indexing the Congressional Directory and $2,500 for compiling, preparing, and indexing material for the biographical directory.

Expenses of Inquiries and Investigations

For inquiries and investigations of the Senate, the committee recommends an appropriation of $2,000,000 for the fiscal year 1957. This is $792,000 less than was made available for this purpose during the fiscal year 1956. Under the present system there is no relationship between the total amount authorized for investigations and the amount appropriated for such activities. It is the view of the committee that a procedure should be adopted whereby the total amount authorized to be expended shall not exceed the sum appropriated for this purpose.

Long-Distance Telephone Calls

The committee has included language in the bill authorizing 120 long-distance telephone calls, or 600 minutes for each Member of the Senate.

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Offices of the Secretaries for the Majority and the Minority

The committee recommendations with respect to the activities under this head are contained in the following language included in the bill:

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND THE MINORITY

For the offices of the secretary for the majority and the secretary for the minority, $94,950: Provided, that effective July 1, 1956, the gross compensation of the secretary for the majority and the secretary for the minority shall be $15,500 per annum each; and the basic annual compensation of the assistant secretary for the majority and the assistant secretary for the minority shall be $6,300 each in lieu of $5,580 each.

Senate Restaurants

The committee recommends an appropriation of $55,000 for repairs, improvements, equipment, and supplies for Senate kitchens and restaurants to be expended under the supervision of the Committee on Rules and Administration of the Senate.

With the extension of the Capitol and the construction of an additional Senate Office Building, there will be many problems relating to dining facilities and a splendid opportunity to develop coordinated plans for better serving the needs of Senators, their staffs, and their guests including the general public. The committee recommends that the Senate Committee on Rules and Administration and the Senate Office Building Commission appoint appropriate subcommittees which can meet and work jointly in coordinating plans for remodeling and improving dining facilities. This joint committee should then meet with other committees having jurisdiction in this area and report its recommendations as early as convenient to the Committee on Appropriations. It is believed that with a minimum of expenditures the newly created opportunity to correct longstanding deficiencies in this area can be constructively utilized to develop significant improvements.

Postage Stamps

The committee recommends an appropriation of $39,775 for postage stamps for the Office of the Secretary, Office of the Sergeant at Arms, offices of the secretaries for the majority and the minority, and including $400 in airmail and special-delivery stamps for each Member.

Office Space

The committee recommends language in the bill to continue the authority for the rental of space for Senators' offices in their States where adequate space is not available in Federal buildings, in an amount of not to exceed $1,200 per annum.

Joint Committee on Reduction of Nonessential Federal Expenditures

The committee recommends an appropriation of $22,500 for the Joint Committee on Reduction of Nonessential Federal Expenditures. This is the same amount that was made available for this committee for the current fiscal year.

Capitol Police

The committee recommends language be included in the bill increasing the salary of the Deputy Chief of the Metropolitan Police force assigned as Chief of the Capitol Police force by $600 per annum.

ARCHITECT OF THE CAPITOL

Subway Transportation

The committee recommends an appropriation of $6,600 for subway transportation, which is an increase of $3,100 over the appropriation for this item for the current fiscal year. The additional sum recommended is to finance the installation of necessary safety features in the subway cars.

Capitol Grounds

For "Capitol Grounds," the committee recommends an appropriation of $932,600, an increase of $650,000 over the House bill. This additional sum of $650,000 is necessary for the construction of a combined sanitary-storm water sewer extending from the additional Senate Office Building to the existing sewer crossing Constitution Avenue just west of New Jersey Avenue NW. The new sewer is required not only to provide proper drainage for the additional Senate Office Building but also to alleviate present inadequate drainage conditions in connection with the existing buildings on the Capitol Grounds.

Senate Office Building

For the "Senate Office Building" the committee recommends an appropriation of $1,248,600, an increase of $287,910 over the appropriation for this purpose for the current fiscal year. The bulk of the increase is to provide for the replacement of existing incandescent lighting fixtures with fluorescent lighting fixtures in Senators' office suites desiring this new-type lighting fixture.

Additional Senate Office Building

The committee recommends the full amount of the budget estimate of $5,250,000 for continuation of construction of the additional Senate Office Building. A total of $16,450,000 has been appropriated to date toward this construction.

LIBRARY OF CONGRESS

Salaries and Expenses

For "Salaries and expenses" of the Library, the committee recommends an appropriation of $5,310,593, an increase of $10,593 over the House bill, a decrease of $25,315 under the budget estimate, and $167,529 over the comparable appropriations for the fiscal year 1956.

With the additional sum recommended by the committee over the House amount, the Library will be in a position to fill promptly the 29 additional positions provided for in the House bill.

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Distribution of Catalog Cards

The committee recommends an appropriation of $1,487,100, an increase of $12,100 over the amount of $1,475,000 allowed by the House. The amount recommended is $14,330 under the 1957 budget estimates; however, it is $84,741 over the amount available for this purpose during the current fiscal year. The Library requested an additional 12 positions under this head to carry out the work of the expanded catalog and with the amount recommended by the committee the Library will be able to promptly recruit necessary personnel to fill these positions.

GOVERNMENT PRINTING OFFICE

Revolving Fund

Language has been included in the bill by the committee authorizing the Public Printer to provide for the improvement of electrical facilities and extension of air conditioning necessary for the operation and maintenance of the Government Printing Office. The operation is to be financed from the revolving fund in accordance with the provisions of title 44, United States Code, section 63 (63 Stat. 301, Aug. 1, 1955). It was testified before the committee that the electrical work will cost approximately $747,000. The existing electrical plant consisting of 13 transformers cannot handle the increasing amount of electricity being used at the Printing Office.

The air-conditioning installation will cost approximately $1,323,000. The committee was advised that during warm periods in the summer, temperatures in excess of 105° F. and up to 117° F. are generated in some of the areas. Language was also included in the bill broadening the scope of the revolving fund to permit capitalization of building appurtenances and their ultimate replacement through depreciation charges.

GENERAL PROVISIONS

A provision was included in the bill in the House providing for the dissolution of the joint recording facility and the establishment of a House Recording Studio. The committee recommends that the House language be amended to provide for a Senate Recording Studio to be operated by the Sergeant at Arms of the Senate under the direction and control of the Committee on Rules and Administration.

Increases and Limitations

The changes recommended by the committee in the amounts of the House bill are as follows:

Senate:

Salaries and expense allowance of Senators and the Vice President:	
Compensation of Senators	$2,166,240
Mileage of the President of the Senate and of Senators	51,000
Expense allowance for the majority and minority leaders of the Senate	4,000
Compensation of the Vice President of the United States	35,070
Expense allowance of the Vice President	10,000
Total, salaries and expense allowance of Senators and the Vice President	2,266,310
Salaries, officers and employees:	
Vice President's Office: Clerical assistance	86,925
Chaplain	5,000
Office of the Secretary	572,915
Committee employees	2,030,650
Conference committees:	
Majority, clerical salaries	40,000
Minority, clerical salaries	40,000
Administrative and clerical assistance to Senators	9,604,000
Office of Sergeant at Arms and Doorkeeper, salaries	1,755,770
Offices of the secretary for the majority, and the secretary for the minority, salaries	94,950
Offices of the majority and minority whips	20,045
Total, salaries of officers and employees	14,250,255
Contingent expenses of the Senate:	
Legislative reorganization	100,000
Senate policy committees	210,000
Joint Committee on the Economic Report	135,560
Joint Committee on Atomic Energy	222,775
Joint Committee on Printing	63,185
Committee on Rules and Administration	29,565
Vice President's automobile	8,785
Automobile for the President pro tempore	8,785
Automobiles for majority and minority leaders	17,570
Reporting Senate proceedings	170,250
Furniture	31,190
Inquiries and investigations	2,000,000
Folding documents	29,000
Senate restaurants	55,000
Motor vehicles	16,560
Miscellaneous items	1,370,000
Postage stamps	39,775
Stationery	187,500
Communications	14,550
Total, contingent expense	5,460,050
Total, Senate	21,226,615

Capitol Police:

Capitol Police Board	600

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INCREASES AND LIMITATIONS—Continued

Joint Committee on Reduction of Nonessential Federal Expenditures	$22,500
Architect of the Capitol:	
Capitol Grounds	650,000
Subway transportation	6,600
Senate Office Building	1,248,600
Additional office building for the Senate	5,250,000
Total, Architect of the Capitol	7,155,200
Library of Congress:	
Salaries and expenses	10,593
Distribution of catalog cards	12,100
Total Library of Congress	22,693
Total increase	28,427,608
Amount of bill as reported to the Senate	117,804,058

COMPARATIVE STATEMENT OF APPROPRIATIONS FOR 1956, AND ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1957

LEGISLATIVE BRANCH

Item	Appropriations, 1956 [1]	Estimates, 1957	Recommended in House bill for 1957	Amount recommended by Senate committee	Increase (+) or decrease (−), Senate bill compared with—		
					Appropriations, 1956	Estimates, 1957	House bill
SENATE							
Senators:							
Compensation of Senators	$2,166,240	$2,166,240		$2,166,240			+$2,166,240
Mileage of the President of the Senate and of Senators	51,000	51,000		51,000			+51,000
Expense allowance for majority and minority leaders	4,000	4,000		4,000			+4,000
Compensation of the Vice President	35,070	35,070		35,070			+35,070
Expense allowance of the Vice President	10,000	10,000		10,000			+10,000
Beneficiaries of deceased Senators	22,500				−$22,500		
Total, Senators	2,288,810	2,266,310		2,266,310	−22,500		+2,266,310
Salaries of officers and employees:							
Office of the Vice President	78,150	86,925		86,925	+8,775		+86,925
Chaplain	5,000	5,000		5,000			+5,000
Office of the Secretary of the Senate	558,235	565,820		572,915	+14,680	+$7,095	+572,915
Joint recording facility	50,990	50,990			−50,990	−50,990	
Committee employees	2,030,650	2,030,650		2,030,650			+2,030,650
Conference committees:							
Majority, clerical salaries	40,000	40,000		40,000			+40,000
Minority, clerical salaries	40,000	40,000		40,000			+40,000

See footnotes at end of table, p. 15.

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Comparative statement of appropriations for 1956, and estimates and amounts recommended in the bill for 1957—Continued

LEGISLATIVE BRANCH—Continued

Item	Appropriations, 1956 [1]	Estimates, 1957	Recommended in House bill for 1957	Amount recommended by Senate committee	Increase (+) or decrease (−), Senate bill compared with—		
					Appropriations, 1956	Estimates, 1957	House bill
SENATE—continued							
Salaries of officers and employees—Continued							
Administrative and clerical assistants to Senators	$9,596,780	$9,604,000		$9,604,000	+$7,220		+$9,604,000
Office of Sergeant at Arms and Doorkeeper, salaries	1,550,920	1,551,395		1,755,770	+204,850	+$204,375	+1,755,770
Office of secretaries for the majority and minority, salaries	91,410	91,410		94,950	+3,540	+3,540	+94,950
Office of the majority and minority whips	16,405	16,405		20,045	+3,640	+3,640	+20,045
Total salaries of officers and employees	14,058,540	14,082,595		14,250,255	+191,715	+167,660	+14,250,255
Contingent expenses:							
Legislative reorganization	100,000	100,000		100,000			+100,000
Senate policy committees	190,000	190,000		210,000	+20,000	+20,000	+210,000
Joint Committee on the Economic Report	146,474	135,560		135,560	−10,914		+135,560
Joint Committee on Atomic Energy	272,775	222,775		222,775	−50,000		+222,775
Joint Committee on Printing	57,735	57,735		63,185	+5,450	+5,450	+63,185
Committee on Rules and Administration				29,565	+29,565	+29,565	+29,565
Vice President's automobile	8,785	8,785		8,785			+8,785
Automobile for the President pro tempore	8,785	8,785		8,785			+8,785
Automobiles for majority and minority leaders	17,570	17,570		17,570			+17,570
Reporting Senate proceedings	162,600	170,250		170,250	+7,650		+170,250
Furniture:							

Furniture:							
For services in cleaning, etc	3,190	3,190			−3,190	−3,190	
Materials, repairs, etc	24,000	24,000		31,190	+7,190	+7,190	+31,190
Inquiries and investigations	2,792,000	2,750,000		2,000,000	−792,000	−750,00	+2,000,000
Folding documents	29,000	29,000		29,000			+29,000
Materials for folding	1,500	1,500			−1,500	−1,500	
Fuel, etc	2,000	2,000			−2,000	−2,000	
Senate restaurants	55,000	55,000		55,000			+55,000
Motor vehicles	14,560	14,560		16,560	+2,000	+2,000	+16,560
Miscellaneous items	1,305,810	1,304,190		1,370,000	+64,190	+65,810	+1,370,000
Packing boxes	4,000	4,000			−4,000	−4,000	
Postage stamps	1,975	975		39,775	+37,800	+38,800	+39,775
Airmail and special-delivery stamps	29,100	29,100			−29,100	−29,100	
Stationery	187,500	187,500		187,500			+187,500
Communications	14,550	14,550		14,550			+14,550
Total, contingent expenses	5,428,909	5,331,025		4,710,050	−718,859	−620,975	+4,710,050
Total, Senate	21,776,259	21,679,930		21,226,615	−549,644	−453,315	+21,226,615
HOUSE OF REPRESENTATIVES							
Members and Delegates:							
Salaries	9,896,000	9,897,000	9,897,000	9,897,000	+1,000		
Mileage, and expense allowance of the Speaker	200,000	200,000	200,000	200,000			
Total, Members and Delegates	10,096,000	10,097,000	10,097,000	10,097,000	+1,000		
Salaries, officers and employees:							
Office of the Speaker	51,890	51,890	51,890	51,890			
Office of the Parliamentarian	49,240	58,325	58,325	58,325	+9,085		
Office of the Chaplain	7,450	7,450	7,450	7,450			

See footnotes at end of table, p. 15.

UNIVERSITY OF MICHIGAN LIBRARIES

Comparative statement of appropriations for 1956, and estimates and amounts recommended in the bill for 1957—Continued

LEGISLATIVE BRANCH—Continued

Item	Appropriations, 1956 [1]	Estimates, 1957	Recommended in House bill for 1957	Amount recommended by Senate committee	Increase (+) or decrease (−), Senate bill compared with—		
					Appropriations, 1956	Estimates, 1957	House bill
HOUSE OF REPRESENTATIVES—continued							
Salaries, officers and employees—Continued							
Office of the Clerk	$883,710	[2] $891,520	$931,955	$931,955	+$48,245	+$40,435	
Committee employees	2,261,850	2,261,850	2,136,000	2,136,000	−125,850	−125,850	
Office of the Sergeant at Arms	419,735	[3] 494,770	494,770	494,770	+75,035		
Office of the Doorkeeper	823,225	862,700	862,700	862,700	+39,475		
Special and minority employees (several items)	217,515	228,495	228,495	228,495	+10,980		
Office of the Postmaster	232,305	[4] 251,425	251,425	251,425	+19,120		
Official Reporters of Debates	138,655	158,210	158,210	158,210	+19,555		
Official Reporters to committees	150,335	150,330	150,330	150,330	−5		
Studies and investigations, Committee on Appropriations	500,000	500,000	500,000	500,000			
Total, salaries, officers and employees	5,735,910	5,916,965	5,831,550	5,831,550	+95,640	−85,415	
Members clerk hire	14,600,000	14,600,000	14,600,000	14,600,000			
Contingent expenses of the House:							
Furniture	254,300	231,800	231,800	231,800	−22,500		
Miscellaneous items	865,000	[5] 1,065,000	1,065,000	1,065,000	+200,000		
Reporting hearings	125,000	125,000	125,000	125,000			
Special and select committees	1,700,000	1,400,000	1,400,000	1,400,000	−300,000		
Joint Committee on Internal Revenue Taxation	220,000	220,000	220,000	220,000			

Joint Committee on Immigration and Nationality Policy	20,000	20,000	20,000	20,000			
Office of the Coordinator of Information	86,985	86,985	86,985	86,985			
Telegraph and telephone	800,000	[3] 1,000,000	975,000	975,000	+175,000	−25,000	
Stationery (revolving fund)	525,700	525,600	525,600	525,600	−100		
Attending physician's office	12,145	12,145	12,145	12,145			
Postage stamps	92,760	92,760	92,760	92,760			
Folding documents	180,000	165,000	165,000	165,000	−15,000		
Revision of laws	16,500	16,500	16,500	16,500			
Speaker's automobile	7,900	14,900	14,900	14,900	+7,000		
Majority leader's automobile	6,500	6,500	6,500	6,500			
Minority leader's automobile	6,500	13,500	13,500	13,500	+7,000		
New edition, United States Code	100,000				−100,000		
Total, contingent expenses	5,019,290	4,995,690	4,970,690	4,970,690	−48,600	−25,000	
Total, House of Representatives	35,451,200	35,609,655	35,499,240	35,499,240	+48,040	−110,415	
CAPITOL POLICE							
General expenses	19,600	[3] 28,800	28,800	28,800	+9,200		
Capitol Police Board	83,750	82,495	82,495	83,095	−655	+600	+$600
Total, Capitol Police	103,350	111,295	111,295	111,895	+8,545	+600	+600
OFFICE OF THE LEGISLATIVE COUNSEL							
Salaries and expenses	328,000	328,000	328,000	328,000			
Joint Committee on Reduction of Nonessential Federal Expenditures: Salaries and expenses	22,500			22,500		+22,500	+22,500
EDUCATION OF SENATE AND HOUSE PAGES							
Expenses	48,730	50,000	50,000	50,000	+1,270		
MISCELLANEOUS							
Penalty mail costs	1,978,000	2,076,000	2,076,000	2,076,000	+98,000		
Statement of appropriations	8,000	[3] 10,000	10,000	10,000	+2,000		
Total, miscellaneous	1,986,000	2,086,000	2,086,000	2,086,000	+100,000		

See footnotes at end of table, p. 15.

UNIVERSITY OF MICHIGAN LIBRARIES

Comparative statement of appropriations for 1956, and estimates and amounts recommended in the bill for 1957—Continued

LEGISLATIVE BRANCH—Continued

Item	Appropriations, 1956 [1]	Estimates, 1957	Recommended in House bill for 1957	Amount recommended by Senate committee	Increase (+) or decrease (−), Senate bill compared with—		
					Appropriations, 1956	Estimates, 1957	House bill
ARCHITECT OF THE CAPITOL							
Salaries	$192,200	$203,500	$203,500	$203,500	+$11,300		
Contingent expenses	50,000	50,000	50,000	50,000			
Capitol buildings	1,140,000	743,200	[4] 743,200	[4] 743,200	−396,800		
Extension of the Capitol	5,000,000	16,000,000	12,000,000	12,000,000	+7,000,000	−$4,000,000	
Capitol Grounds	280,000	932,600	282,600	932,600	+652,600		+$650,000
Legislative garage	38,500	38,500	38,500	38,500			
Subway transportation	3,500	3,500		6,600	+3,100	+3,100	+6,600
Senate Office Building	960,690	1,248,600		1,248,600	+287,910		+1,248,600
House Office Buildings	1,125,000	1,149,900	1,149,900	1,149,900	+24,900		
Additional Office Building, U. S. Senate	8,500,000	5,250,000		5,250,000	−3,250,000		+5,250,000
Senate Restaurants	20,000				−20,000		
Additional House Office Building, acquisition of property, construction and equipment		10,000,000	10,000,000	10,000,000	+10,000,000		
Capitol Power Plant (operation)	1,279,500	1,304,300	1,304,300	1,304,300	+24,800		
Capitol Power Plant, changes and improvements	1,800,000	1,196,000	1,196,000	1,196,000	−604,000		
Library buildings and grounds:							
Structural and mechanical care	732,500	809,000	800,000	800,000	+67,500	−9,000	
Furniture and furnishings	68,000	81,700	75,000	75,000	+7,000	−6,700	
Total, Architect of the Capitol	21,189,890	39,010,800	27,843,000	34,998,200	+13,808,310	−4,012,600	+7,155,200

BOTANIC GARDEN						
Salaries and expenses	248,000	253,600	253,600	253,600	+5,600	
LIBRARY OF CONGRESS						
Salaries and expenses	5,143,064	5,335,908	5,300,000	5,310,593	+167,529	−25,315	+10,593
Copyright Office, salaries and expenses	1,238,475	1,287,547	1,287,547	1,287,547	+49,072		
Legislative Reference Service, salaries and expenses	1,054,932	1,067,387	1,067,387	1,067,387	+12,455		
Catalog cards, distribution of	1,402,359	1,501,430	1,475,000	1,487,100	+84,741	−14,330	+12,100
Increase of the Library:							
General	300,000	300,000	300,000	300,000			
Law library	90,000	90,000	90,000	90,000			
Books for Supreme Court	25,000	27,500	27,500	27,500	+2,500		
Books for the blind	1,006,678	1,067,481	1,067,481	1,067,481	+60,803		
Total, Library of Congress	10,260,508	10,677,253	10,614,915	10,637,608	+377,100	−39,645	+22,693
GOVERNMENT PRINTING OFFICE						
Printing and binding for Congress	8,800,000	9,700,000	9,600,000	9,600,000	+800,000	−100,000	
Superintendent of Documents, salaries and expenses	2,937,270	2,990,400	2,990,400	2,990,400	+53,130		
Total, Government Printing Office	11,737,270	12,690,400	12,590,400	12,590,400	+853,130	−100,000	
Grand total, legislative branch	103,151,707	122,496,933	89,376,450	117,804,058	+14,652,351	−4,692,875	+28,427,608

[1] Includes amounts contained in Urgent Deficiency, 1956 (Public Law 406), and Second Supplemental Appropriation Act, 1956.
[2] Includes supplemental estimates in H. Doc. 404.
[3] Includes $100,000 contained in H. Doc. 408.
[4] In addition not to exceed $60,000 of prior year funds continued available.

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Calendar No. 2259

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2237

DEFENSE PRODUCTION ACT AMENDMENTS OF 1956

REPORT

TOGETHER WITH

INDIVIDUAL VIEWS OF MR. BUSH

OF THE

COMMITTEE ON BANKING AND CURRENCY

TO ACCOMPANY

H. R. 9852

JUNE 14 (legislative day, JUNE 11), 1956.—Ordered to be printed

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84TH CONGRESS, 2d Session } SENATE { REPORT No. 2237

DEFENSE PRODUCTION ACT AMENDMENTS OF 1956

JUNE 14 (legislative day, JUNE 11), 1956.—Ordered to be printed

Mr. FULBRIGHT, from the Committee on Banking and Currency, submitted the following

REPORT

[To accompany H. R. 9852]

Together with the

INDIVIDUAL VIEWS OF MR. BUSH

The Committee on Banking and Currency, to whom was referred the bill (H. R. 9852) to extend the Defense Production Act of 1950, as amended, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

PROVISIONS OF THE BILL

The bill would extend the Defense Production Act of 1950, which otherwise will expire on June 30 of this year, for 2 additional years, to June 30, 1958. It would make a corresponding extension, from June 30, 1963, to June 30, 1965, in the authority to purchase strategic materials under section 303 of the act. In addition, it would require the Secretary of Commerce to make a study, in consultation with the Joint Committee on Defense Production, of the various aspects of the supply and marketing of nickel, with an interim report to be filed by July 15, 1956, and a final report by December 31, 1956.

Under committee amendments, the bill would (1) give congressional sanction and support to the principle of geographical dispersal of new Government-assisted defense facilities, in the interest of national security; (2) strengthen the President's hand in exercising the allocation authority when defense requirements cause significant dislocation of normal distribution; and (3) simplify payment of the expenses of the Joint Committee on Defense Production.

The bill, as amended by the committee, does not contain the provision of H. R. 9852 requiring members of the Executive Reserve to file statements of their financial interests in the Federal Register at the time of their appointment in the reserve.

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General Statement

The maintenance of a strong and flexible defense program requires that current military and atomic-energy programs proceed without interruption. In addition, a broad and diversified mobilization base must be established which will reflect new requirements resulting from changes in technology and strategy. The authorities provided in the Defense Production Act are essential to meet these objectives.

The powers granted by the Defense Production Act which would be extended for 2 years by this bill include the priorities and allocations powers (sec. 101); restrictions on hoarding scarce materials (sec. 102); authority to guarantee defense contracts (sec. 301); lending authority (sec. 302); authority to establish purchase programs for metals, minerals and other materials and to encourage exploration, development, and mining of minerals and metals (sec. 303); borrowing authority (sec. 304); and the ancillary powers contained in title VII, such as the authority to require the filing of reports and to compel the disclosure of information (sec. 705); enforcement authorities (sec. 706); authority to provide antitrust exemption for certain voluntary agreements and programs (sec. 708); exemption from the Administrative Procedure Act, except section 3 thereof (sec. 709); authority to employ persons without compensation on a full-time or part-time basis with exemptions from the conflict-of-interest statutes (sec. 710); and authority for the Joint Committee on Defense Production (sec. 712).

Dispersal

The problem of the concentration of industrial strength in close spaced areas has become of vital significance in this day of the H-bomb. Admiral Strauss, Chairman of the Atomic Energy Commission, set forth the simple but appalling facts in a statement on the effects of high-yield nuclear explosions:

> The very large thermonuclear device tested at Bikini Atoll on March 1, 1954, was detonated on a coral island and the ensuing fallout contaminated an elongated, cigar-shaped area extending approximately 220 statute miles downwind and varying in width up to 40 miles. In addition, there was a contaminated area upwind and crosswind extending possibly 20 miles from the point of detonation.
>
> * * * it is estimated that * * * there was sufficient radioactivity in a downwind belt about 140 miles in length and of varying width up to 20 miles to have seriously threatened the lives of nearly all persons in the area who took no protective measures.
>
> Thus, about 7,000 square miles of territory downwind from the point of burst was so contaminated that survival might have depended upon prompt evacuation of the area or upon taking shelter and other protective measures.
>
> * * * * *
>
> Two important characteristics of any nuclear explosion, other than those from fallout, are the effects of blast and heat * * *. The intensity and area of the blast and heat effects increase in relation to the greater energy yield of

> the explosion. * * * an atomic bomb of the earliest type, equivalent to 20,000 tons of TNT, would produce blast and heat sufficient to destroy, or damage severely, buildings within a radius of more than 1 mile from the explosion point. The United States has developed fission bombs many times as powerful as the first atomic bombs, and hydrogen weapons in the ranges of millions of tons [megatons] of TNT equivalent (quoted from Federal Disaster Insurance Staff Study, Senate Banking and Currency Committee, 84th Cong., 1st sess., pp. 194–196).

The H-bomb and the full appreciation of the dangers of fallout have emphasized the attention given to dispersal. The Nation's ability to fight back after an attack depends in large part on our ability to continue producing the weapons of war and civilian goods necessary for the next phase of a war. The Office of Defense Mobilization, the Department of Defense, and the Department of Commerce have recognized this need and are cooperating in a program to help locate new plants in dispersed areas, when practicable. Of course, the many other factors which necessarily limit the location of industrial plants must be borne in mind.

The committee explored the problems of dispersal at the hearings with the Director of the Office of Defense Mobilization and Secretary of Commerce Weeks, and also received the comments of other agencies. All the agencies commenting on the proposal recognized the importance of dispersal, and declared it vital to continue the Government's policy of considering dispersal as one of the important factors in the location of Government-assisted new plants.

Dr. FLEMMING, Secretary Weeks, Governor Peterson, Director of the Federal Civil Defense Administration, and Mr. Wendell Barnes, Director of the Small Business Administration, supported the amendment, as an expression of congressional approval and support for the policy which would be helpful in securing public cooperation and would assist in making substantial and intelligent progress in the program.

The Department of the Air Force, for the Department of Defense, expressed complete approval of the policy, which is being carried out in the Department of Defense under Department directives, but opposed the amendment on the ground that it might give rise to question as to its interpretation in individual cases and might be confusing. The committee considers that this comment misses the purpose and effect of the amendment.

The amendment does not apply the principle of dispersal to existing plants. It does not require replacing existing industries. And it does not mean that geographical dispersal is the only, or in some cases even the principal, factor to be considered.

The amendment is designed to give an expression of congressional support and approval of the dispersal policies which the agencies have already adopted, and the dispersal program which they are already carrying out. The amendment calls for the application of the principle of geographical dispersal of industrial facilities, under the coordination of the Office of Defense Mobilization, (1) when practicable, (2) when consistent with existing law, and (3) when consistent with the desirability of maintaining a sound economy. Full recognition can and should be given under this provision to the many other

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factors entering into the location of industrial plants: access to raw materials, power, labor, transportation, etc.

It is the considered view of the committee that the amendment will bring public support to the agencies' dispersal program, and thereby contribute to the national security.

The principle of geographical dispersal is vital to our national security. Congress should not shirk responsibility for this policy. The committee urges that Congress give its full support to the agencies working on this program, through the enactment of this amendment.

Priorities and Allocations

To maintain the necessary level of defense procurement without interruption during a period when the requirements of an expanding economy for materials and facilities are extremely high, it is necessary to insure a preference for delivery on defense orders. Thus, the priorities and allocations authority of title I of the act is of great importance to the procurement programs of the Department of Defense and the Atomic Energy Commission.

The Defense Production Act authorizes the Department of Commerce to operate a defense materials system. This system requires producers of basic forms and shapes of steel, copper, and aluminum to set aside certain percentages of their production for the filling of identified defense orders. These orders are given a preference in delivery which applies, not only to the basic materials in those setasides, but also to other materials, such as nickels and to the various components entering into the production of the end item ordered.

This devise also insures the equitable distribution of defense orders among the various producers of basic items and leaves to each producer of such materials a relative share of his production for supplying his customers in the civilian market.

The committee noted that transportation orders T–1 and T–2 have been continued in force under the authority of title I of the act. These orders prohibit United States ships and airplanes (*a*) from carrying any cargo destined for Communist China or North Korea, wherever picked up, and (*b*) from going to any seaport or airport in Communist China or North Korea. The committee views these orders as a proper exercise of the allocation authority, and considers it important to continue the authority on which they are based.

Shortages in the Civilian Market

The committee was informed of shortages of a number of important materials—aluminum, copper, nickel, steel, and cement—and resulting price increases, premium prices and gray markets, and maldistribution and hardships. This situation has caused concern to small firms throughout the country, and also to the Small Business Administration and the Department of Justice. The Attorney General's report of April 13, 1956, under the Small Business Act points up the problems involved, particularly in the matter of distribution of these scarce materials.

The nickel situation is typical of many other materials, but is particularly marked. Defense requirements, including stockpile purchases, have been taking a large part of the supply, leaving insufficient quantities for the civilian market. Most civilian con-

sumers of nickel are receiving only a small fraction of their needs, and in addition they are faced with a 3-price arrangement—regular- or market-priced nickel, premium-price nickel (Government nickel diverted by ODM from the stockpile) at about twice the price of regular nickel, and gray-market nickel (nickel diverted from other contracts or purchased abroad, but without violation of law) at about 3 times the market price. Black-market nickel (nickel obtained or sold in violation of law, for example, illegally diverted defense supplies) apparently sells at about the same price as gray-market nickel.

Dr. Flemming and Secretary Weeks have recognized the existence of these shortages and the resulting effects on prices and distribution. Both have urged that no further governmental action is necessary or desirable. Both have taken the position that the only cure for the present situation is an increase in the supply of nickel, which is being sought by ODM and GSA through the financial measures provided in title III of the act. (It may however, be noted that an announcement has recently been made by ODM that nickel alloys will be placed under the controlled materials plan beginning in July, and that ODM and Commerce are considering exercising certain controls over nickel scrap.)

Testimony before the Joint Committee on Defense Production and the Senate Select Committee on Small Business describes the present system of allocating nickel. Before controls were removed in 1953, nickel producers and suppliers gave assurances to the Office of Defense Mobilization and the Department of Commerce that they would distribute nondefense nickel in an equitable and orderly fashion. The producers and suppliers agreed to continue the base period civilian allocations established by the National Production Authority under the Defense Production Act and permit examination of their books by the Department of Commerce to assure that these agreements were being kept. These arrangements are being carried out, and the Government-owned supply of nickel is being allocated so as to complement this voluntary allocation system.

Mr. Mueller, Assistant Secretary of Commerce for Domestic Affairs, in his testimony of May 31, 1956, before the Senate Select Committee on Small Business, gave the following description of the operations of the present voluntary allocation system:

> Of great practical significance has been the position of the International Nickel Co. as the predominant producer-supplier. This has enabled it to adjust its distribution to take into account quantities of nickel received by its customers from other suppliers. Inco apportions its deliveries on a basis which takes into account the consumer's individual historical use during a base period. Appropriate adjustment is made for such factors as loss of nickel consumption during the period of Government use of restrictions, new entry into business and the like. The plating suppliers in turn adhere to a practice of distributing the nondefense nickel received by them to their plating customers on the basis of their respective average monthly base purchases during the most favorable of the following 6-month periods: First half of 1949, second half of 1949, or first half of 1950. Here, again, provision is made to accommodate the needs of new platers to a limited extent.

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> When the distributor of Government-owned Nicaro Nickel receives a request from potential new customers, the application is referred to the GSA for credit reference. The GSA has in the past requested the Department of Commerce to advise the GSA whether the potential customer is a bona fide nickel consumer and not a person who seeks to purchase nickel solely for the purpose of resale. The Department of Commerce advice is limited to a description of the known nickel-consuming history of the potential customer and recommendation of action on application of customer. GSA as the administering agency of the Nicaro operations makes the decision.
>
> In authorizing diversions of premium-price nickel the Government specifies that the nickel is to be distributed in a fair and equitable manner.

Mr. Mueller referred in this testimony to the cooperation and willingness of the producers and suppliers "in subjecting their dealings and records to Government inquiry and inspection as requested." The scope of these inquiries is indicated by the following statement from the same statement by Mr. Mueller:

> Now, I should like to refer briefly to certain other activities of the Department of Commerce in connection with civilian acquisition of nickel. During the past year over 300 inquiries were received by the Department from persons who indicated that they felt they were not receiving their fair share of nickel supplies. Every one of these was checked into by the Business and Defense Services Administration, and only in one case did we find that the complainant had not received his fair share. This situation was promptly corrected by the supplier when called to his attention by us.

In the Commerce Department report, A Review of Nickel in the United States, 1946 to 1956," issued December 1955, the active part played by the Government in the present distribution system is made clear in the following:

> Question. What steps are taken by the Government to assure equitable distribution of nickel?
>
> Answer. BDSA personnel conduct a monthly audit of nickel distribution by nickel producers in order to make sure that some nickel consumers do not get more than their fair share. This is done by BDSA personnel matching up the order boards of nickel producers in order to insure that consumers do not place duplicate orders with different suppliers. In addition, the order boards of the nickel plating suppliers are audited periodically. The most recent audit was conducted during September of this year. In this way any inequities can be corrected quickly.

Dr. Flemming's understanding of the present place of the Government in allocating nickel differed sharply, as did his views on the desirability of Government participation in informal controls:

> Although liaison has been maintained in this manner it should be emphasized that the Government has made no effort to adjudicate conflicting claims within the civilian

economy for nickel. Any effort to do so would represent a step in the direction of controls.

For example, the Government might be impressed with the case made by a claimant. It might indicate to a producer that it was impressed with his claim. The producer might act. If he did so, he would be reducing the supply available to other claimants. These other claimants would then present their cases to the Government. The Government, in all fairness, would have to look at their claims. If it decided that one of the new claimants had established a case for different treatment than it was receiving, it would find itself in a position where, in all fairness, it should so indicate to the producers.

The Government would then be in the business of controlling the distribution of nickel within the civilian economy in an informal manner. Formal control over the distribution of nickel in the civilian economy would bring a great many liabilities in its wake. Informal controls would create even more serious liabilities. If we are going to have controls, they should be formal controls so that everyone knows the rules of the game (prepared statement of Dr. Flemming for the Senate Select Committee on Small Business, May 31, 1956).

The committee is not satisfied with the present nickel situation:

1. The committee does not agree with the Department of Commerce that the present distribution of nickel is equitable and that every user of nickel has received his fair share. On the contrary, the committee feels the present situation is unfair, confusing and chaotic.

2. The committee does not agree that the present voluntary allocation system constitutes either freedom from Government control or free competitive private enterprise. On the contrary, the committee considers that the present distribution system involves an undesirable kind of informal control, subject to no formal rules or procedures.

3. The committee feels that when defense requirements take so much of the available supply of a material that the civilian market is seriously dislocated, threatening many independent small businesses with extinction, the Government cannot wash its hands of responsibility. Under these conditions the Government is under a duty to take all practicable steps to alleviate the situation caused by the requirements of defense.

Nickel Survey

While recent hearings have brought to light considerable information about the nickel situation, the committee was not satisfied that the full story is yet revealed.

Accordingly, the committee approved the provision of H. R. 9852 which would require the Secretary of Commerce to make a special investigation and study of the production, allocation, distribution and use of nickel, of its resale of scrap, and of other aspects of the current situation with respect to the supply and marketing of nickel, including particularly the adequacy of the present system of nickel allocation

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between defense and civilian users. The Secretary is required to consult with the Joint Committee on Defense Production during the investigation and study on the progress achieved and the results obtained. The Secretary is required to make an interim report by July 15, 1956, and a final report by December 31, 1956. These reports will include the results of the investigation and such recommendations as the Secretary deems advisable.

In making this investigation and study, and in formulating the recommendations thereon, the Secretary of Commerce should consult with and obtain the advice of the Small Business Administrator and the Attorney General.

Amendment to Section 701 (c)

The committee found that the Office of Defense Mobilization and the Department of Commerce were in disagreement, and in some confusion, on the matter of their authority under the Defense Production Act.

The Department of Commerce has expressed the following view, in a letter of April 25, 1956:

> As you doubtless know, Government is without authority to direct or request a supplier to provide any particular quantity of nickel for nondefense uses (Congressional Record, May 31, 1956, p. 8433).

Dr. Flemming, on the other hand, gave the following testimony before the committee:

> As we interpret, of course, section 101 (b), to which you have referred, it lays down the policy under which the President could move in and exercise control of materials over the civilian market. In other words, when these conditions prevail, he may then exercise those controls if he so desires. I am sure that someone could make a pretty good case for saying that the nickel situation comes within the purview of the language of 101 (b), which conceivably could put the executive branch in a position where it could legally decide to control the general distribution of nickel in the civilian market. It could do it legally.
>
> As a matter of policy, we do not feel that that is the thing to do, because we do not feel that that would provide any real solution to the difficult problem that confronts us in the field of nickel at the present time (hearings, pp. 37–38).

Section 101 (a) of the Defense Production Act contains the same broad and flexible priority and allocation powers that were granted in 1950. Under these powers, many different forms of controls can be exercised, including full allocation of the entire supply of a material, end use restrictions, conservation measures, priorities for military requirements, and other appropriate measures of control.

Section 101 (b) was enacted in 1953. This provided that the priority and allocation powers should not be used "to control the general distribution of any material in the civilian market" unless certain criteria were satisfied. The attention of the Office of Defense Mobilization and the Department of Commerce is called to the fact that the restrictions of section 101 (b) only apply to controls over the

general distribution of a material in the civilian market. Other uses of the priority and allocation powers than control over the general distribution in the civilian market are not restricted in any way by section 101 (b), for example end use restrictions, a setaside for independent small business, inventory restrictions, and similar controls falling short of control over the general distribution in the civilian market.

Under section 101 (b), control over the general distribution of a material in the civilian market may be exercised only when the President finds—

> (1) that such material is a scarce and critical material essential to the national defense, and (2) that the requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship.

It is interesting to note the statements made by the House Committee on Banking and Currency at the time that committee recommended approval of section 101 (b):

> Nickel at present provides an excellent illustration of the meed of authority to provide for equitable distribution of available civilian supplies. It is estimated that during 1953 the military, AEC, and stockpile will take more than one-half of the total supply. These requirements are so heavy as to make it necessary to apportion, as equitably as possible, the residual supply among civilian uses (H. Rept. No. 516, 83d Cong., 1st sess., p. 5).

In order to provide additional assistance for firms which are unable to obtain needed supplies of scarce materials because of the size of the defense requirements, the committee adopted an amendment to section 701 (c). This amendment would apply when the fulfillment of military requirements under the authority of the act creates a significant dislocation of the normal distribution of a material in the civilian market, causing appreciable hardship. Under such circumstances, the President would be required to exercise such controls under the act as he deemed necessary to make available for businesses in the normal channels of distribution in the civilian market a fair share of the remaining civilian supply, giving due consideration to the needs of new businesses, to individual hardships, and to small firms.

The amendment does not specify what forms of control the President shall exercise. Its requirements are limited to such steps as the President may find practicable. Control over the general distribution of a material in the civilian market would still be subject to the requirements of section 101(b). And finally, the President is not required to take any action unless he finds that it will alleviate the hardships without having an unfavorable effect on the civilian economy as a whole.

The committee felt it appropriate to permit the President the widest leeway in carrying out this section, and therefore included in the amendment ample assurance that the President would not be required to take impracticable or harmful steps. At the same time, the committee wished to make it entirely clear that the President

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would have the authority, and the duty, to take all practicable steps to prevent or alleviate the dislocations and hardships caused to the civilian economy by the necessary fulfillment of extraordinary defense requirements.

Expansion of Productive Capacity and Supply

This authority found in title III of the act authorizes the use of various incentives to expand productive capacity and supply needed for the mobilization base. Of the 227 expansion goals established, objectives have been reached in over 150 cases and only 32 now remain open. It is recognized, of course, that maintenance of the mobilization base is not a static concept and that it must be adapted to meet changing conditions.

Section 301 of this title contains loan-guaranty provisions which are extensively used by the Department of Defense. Through December 31, 1955, guaranties aggregating $2 billion had been authorized by the Department of Defense under this section. The amount outstanding on that date on the loans covered by these guaranties was $452 millions, of which $337 million was guaranteed.

The lending and loan-guaranty authority provided in section 302 has not been extensively used, as much of the programed mobilization plant expansion has been financed by private capital with no Government assistance other than rapid tax amortization. It is of interest to note, however, that in keeping with powers to maintain, protect, or reconstruct the mobilization base, 7 loans totaling $13.9 million were made under section 302 authority in disaster areas following the hurricanes last fall for the reconstruction, rehabilitation, or replacement of mobilization base facilities.

Extensive use has been made of the procurement authority provided in section 303. As of the close of 1955, purchases aggregating $4 billion had been completed under this section, with another $2.8 billion remaining in process. The expansion of productive capacity and the supply of strategic and critical materials, together with our stockpiling activities, has substantially reduced the threat of wartime shortages of such materials for defense purposes.

Section 303 (a) authorizes the President to make purchases or commitments to purchase metals, minerals, and other materials for Government use or resale and to encourage the exploration, development, and mining of critical and strategic minerals and metals, subject to certain limitations specified in the section. Section 303 (b) authorizes these purchases and commitments up to June 30, 1963. Consistent with the extension of the act for 2 years, as proposed in section 1 of the bill, the bill also extends the date to which these purchases and forward commitments may be made for 2 years, to June 30, 1965. This extension is necessary in order to help in bringing about the necessary exploration, development, and mining of essential minerals and metals.

Voluntary Agreements

Under section 708 of the Defense Production Act the President is authorized to grant an exemption from the antitrust laws for actions taken by private businesses in accordance with requests by the President or his delegate pursuant to voluntary agreements and

programs approved under the section. Section 708 required that if the President delegates this authority, the voluntary agreements and programs must be approved by the Attorney General.

This provision was amended in 1955 to provide that the only kind of new agreements under this section that could be entered into were those relating solely to the exchange between actual or prospective contractors of information, materials, and personnel concerning equipment being procured by the military. No new nonmilitary agreements were permitted. Under these "military" voluntary agreements and programs, contractors and prospective contractors are able to exchange production techniques and information. The military benefits from these agreements, because its various contractors get the results of any improvements in techniques developed by the contractors and the equipment procured is therefore better and cheaper. The contractors, without the exemption from the antitrust laws provided by these agreements under section 708 would ordinarily not be able to engage in such exchanges of information and techniques.

The Attorney General was also required by the 1955 amendments to review each outstanding voluntary agreement and program under the section and to withdraw his approval, if he found that the adverse effect of an agreement or program on the competitive, free-enterprise system outweighed the benefits of the agreement or program to the national defense. This determination was required to be made within 90 days after the enactment of the 1955 amendments.

The Attorney General has made the review and has filed 3 quarterly reports and 1 supplementary report concerning his review and determinations. Most of the agreements were handled promptly, either by termination in those cases where they were found no longer necessary or by a favorable determination. In two cases, however, the Attorney General was unable to act with the promptness required by the 1955 amendments—the foreign petroleum supply agreement and the tanker capacity contribution agreement. In both of these cases the Attorney General found that the adverse effects of the agreements on the competitive free-enterprise system, in their present forms, outweighed the benefits of the agreements to the national defense. The antitrust problems raised in the foreign petroleum supply agreement by the activities of the committee of representation of the petroleum industry formed under the agreement were set forth in the Attorney General's Supplementary Report of February 20, 1956.

> First, as I have indicated, this Department felt operations under the agreement raised real antitrust problems. Careful examination of committee [the committee of oil company representatives] reports and minutes of meetings disclose that members discussed, on at least a country-by-country basis: storage facilities, estimated petroleum requirements of each country, estimated crude production, estimated refinery output, consumption in relation to refinery output, aviation gasoline stocks, and pipeline facilities.
>
> Further, (*a*) ownership and capacities of storage facilities were discussed, (*b*) discussion of country requirements included *current* and *future* as well as past requirements, (*c*) the report on refinery operations included the capacities of *each* refinery and total capacities on a country and geograph-

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ical area basis, and (*d*) each member submitted information on its own pipeline systems all over the world. These discussions let me emphasize, took place at the request of some interested Government agency.

Interior urged that individual company figures and estimates regarding requirements and production generally were not discussed, except with respect to aviation gasoline. However, the Committee's staff, appointed by members of the Committee, and made up largely of oil company employees, often, if not normally, received individual company figures and estimates. Contrary to Interior's apparent view, we felt this in effect meant communication of one competitor's production estimates to another.

This procedure takes on meaning in light of the fact that the 14 agreement members include 5 of the principal defendants, and 6 more of the alleged coconspirators, affiliates or subsidiaries of defendants in the Government's oil cartel suit. The prime offense, there alleged, is a division of world markets aided, partially at least by information not unlike that discussed at this Committee's meetings. (Report on Review of Voluntary Agreement Program under Defense Production Act, committee print, Senate Banking and Currency Committee, February 28, 1956, 84th Cong., 2d sess., p. 55–56.)

The Attorney General reported that he had required amendments to the agreement eliminating these antitrust problems, which had been accepted by the Office of Defense Mobilization and the Departments of Interior and Commerce. Corresponding amendments were required and agreed to in the case of the tanker capacity contribution agreement. The Attorney General's report of May 9 stated that requests to participate in the amended agreements were forwarded to participants in the agreements on April 17, 1956, and May 8, 1956, respectively.

Elimination of the antitrust problems involved in these voluntary agreements, resulting from the amendments proposed by the committee in 1955, is a source of satisfaction to the committee. However, regret must be expressed that it required almost 9 months to bring about these amendments, although the act required that the determination should be made by the Attorney General within 90 days.

The Attorney General initially raised a question whether the responsibility imposed on him to determine whether the adverse effects of a voluntary agreement in the free competitive enterprise system outweighed its benefits to the national defense was applicable to future approvals of subsequent voluntary agreements or to a continuing review of outstanding agreements, or whether this responsibility was applicable only to the initial review of outstanding agreements required by the 1955 amendments. However, the Attorney General has accepted the view that his responsibility for this determination is applicable to future new agreements and to the continuing review of outstanding agreements.

The committee also noted with approval the Attorney General's view that the provisions in the foreign petroleum supply agreement and the tanker capacity contribution agreement for future allocation

programs covering petroleum and tanker capacity (subject to future approval of any such programs by the Attorney General) were valid and appropriate under the section as amended in 1955.

Industry Paid Employees

Executive Order 10647 and other orders were issued to put into effect the 1955 amendments relating to industry paid employees (also called without compensation or WOC employees). The Department of Commerce furnished the Committee information concerning the methods of appointment of these employees and the measures which were being taken to prevent them from getting into positions where the interests of their private employers might conflict with their public duties and responsibilities.

The following statement of Secretary of Commerce Weeks sets forth the efforts made to obtain full-time Government employees:

> In each case prior to approval of the appointment of the individual on a WOC basis our Office of Personnel Management endeavors to locate candidates to fill the position on a full-time salaried basis. In doing so it gives consideration to (1) employees currently employed in the Business and Defense Services Administration, (2) former employees on the Department's reemployment priority list, (3) applications retained in the applicant file, and (4) such other sources of likely personnel as are available and appropriate (hearings, p. 154).

However, a number of the individual job descriptions of these employees indicate that the position is set up for WOC employees; for example, a number of job descriptions contain such statements as the following:

> The policy of rotating division directors from different industries on a WOC basis makes it desirable to select men who are able to quickly grasp new concepts, limitations, and apply previous experience to entirely new and novel situations (hearings, p. 163).

This apparent inconsistency is called to the attention of the Secretary of Commerce and the Civil Service Commission.

Provisions in the Executive order and in the Department of Commerce procedures warn these employees of the conflict of interest problems. The Commerce Department has furnished a list of typical examples of policy decisions made by responsible full-time salaried officials with respect to which the employee's role is limited to advising such officials.

> (*a*) The issuance by the agency of orders and regulations aimed to insure the prompt delivery of materials and products needed for current military and Atomic Energy Commission production and construction programs. Such regulations establish priorities to be accorded defense-rated orders, and include the series of regulations commonly referred to as the defense materials system. Of similar import are decisions to amend and modify these regulations from time to time as circumstances require.

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(*b*) The issuance of delivery directives pursuant to existing regulations and orders.

(*c*) The establishment of set-asides pursuant to existing regulations or orders.

(*d*) The granting of exceptions and adjustments to individuals or firms affected by existing regulations or orders in a manner causing undue hardship not suffered by others in the industry.

(*e*) The adoption of appropriate standby orders and regulations for promulgation in the event of an emergency.

(*f*) The recommendation of expansion goals to the Office of Defense Mobilization (hearings, p. 110).

The committee urges that the greatest of care and good judgment should be exercised in making use of these industry-paid employees, under the exemption from the conflict of interest statutes. It is recognized that in time of war or full mobilization their services, under proper safeguards, are essential to the national security. There is real danger that unnecessary and injudicious use of these employees at the present time, when the patriotic incentives are less compelling, may result in unfortunate occurences, which would make it more difficult or perhaps impossible to make use of them when needed in a later period of war or full mobilization. Such a result would indeed be harmful to the national security.

Executive Reserve Program

The Defense Production Act amendments of 1955 authorized a new executive reserve program under which each agency having mobilization responsibilities is authorized to set up and train a reserve of persons from private life and from government to fill executive positions in the Federal Government in time of mobilization. Under this program the agencies will select persons qualified to fill key positions and will secure their agreement, backed up by their employers, to be available for service in the event of mobilization. Reservists will be trained in the operations of the Government as well as in the various mobilization plans of importance to their wartime posts. The immediate availability of such a reserve will meet one of the most difficult problems of a rapid, full-scale mobilization.

These persons, as long as they continue in the executive reserve, would not be Government employees in any sense of the word. They would not fill any positions; they would not take any action; they would not even give advice to Government officials or consult with them. Executive Order 10660 setting up the reserve provides in part as follows:

> Sec. 5. Activities of persons by reason of designation as executive reservists under this order shall not include acting or advising on any matter pending before any department or agency but shall be limited to receiving training for mobilization assignments under the reserve program (hearings, p. 50).

If the occasion should arise for a member of the executive reserve to fill a Government position or to become an adviser or consultant, he would have to be appointed under an appropriate statute, either as a regular full-time salaried Government employee, as a "without

compensation" employee, or as a part-time adviser or consultant. At that time he would be fully subject to all the requirements applicable to the position to which he was appointed.

Under these conditions the committee did not feel that there was any need to require persons appointed to the executive reserve to file a statement in the Federal Register setting forth their financial interests as is required in the case of "without compensation" employees. Accordingly, the committee did not approve and does not recommend enactment of the amendment relating to executive reservists proposed in the House bill.

Payment of Expenses of Joint Committee

Section 712 (e) provides that the expenses of the Joint Committee on Defense Production (limited to $65,000 in any fiscal year) shall be paid half from the contingent fund of the Senate and half from the contingent fund of the House of Representatives. Under this provision the House disbursing officer makes all the payments for committee expenses and every 6 months is reimbursed by the Senate disbursing officer for half the payments to date. The House disbursing officer sets up a reserve of the entire $65,000 to meet this obligation and the Senate disbursing officer sets up a reserve of half the amount, $32,500. This means that at the start of each year, the combined reserve is $97,500. These reserves must be held for 2 years after the year in question, before return to the Treasury.

It has been proposed that this unnecessary bookkeeping and these unnecessary reserves be eliminated by having all the expenses of this committee paid from the House contingent fund. This is acceptable to the disbursing officers of the Senate and the House, and is consistent with the practice followed in other joint committees.

Changes in Existing Law

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

DEFENSE PRODUCTION ACT OF 1950

* * * * * * *

DECLARATION OF POLICY

Sec. 2. In view of the present international situation and in order to provide for the national defense and national security, our mobilization effort continues to require some diversion of certain materials and facilities from civilian use to military and related purposes. It also requires the development of preparedness programs and the expansion of productive capacity and supply beyond the levels needed to meet the civilian demand, in order to reduce the time required for full mobilization in the event of an attack on the United States.

In order to insure productive capacity in the event of such an attack on the United States, it is the policy of the Congress to promote the geographical dispersal of the industrial facilities of the United States in the interest

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of the national defense, and to discourage the concentration of such productive facilities within limited geographical areas which are vulnerable to attack by an enemy of the United States. In the construction of any Government-owned industrial facilities, in the rendition of any Government financial assistance for the construction, expansion, or improvement of any industrial facilities, and in the procurement of goods and services, under this or any other act, each department and agency of the Executive Branch shall apply, under the coordination of the Office of Defense Mobilization, when practicable and consistent with existing law and the desirability for maintaining a sound economy, the principle of the geographical dispersal of such facilities in the interest of national defense. Nothing contained in this paragraph shall preclude the use of existing industrial facilities.

TITLE I—PRIORITIES AND ALLOCATION

SEC. 101. (a) The President is hereby authorized (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.

(b) The powers granted in this section shall not be used to control the general distribution of any material in the civilian market unless the President finds (1) that such material is a scarce and critical material essential to the national defense, and (2) that the requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship.

SEC. 102. In order to prevent hoarding, no person shall accumulate (1) in excess of the reasonable demands of business, personal, or home consumption, or (2) for the purpose of resale at prices in excess of prevailing market prices, materials which have been designated by the President as scarce materials or materials the supply of which would be threatened by such accumulation. The President shall order published in the Federal Register, and in such other manner as he may deem appropriate, every designation of materials the accumulation of which is unlawful and any withdrawal of such designation. In making such designations the President may prescribe such conditions with respect to the accumulation of materials in excess of the reasonable demands of business, personal, or home consumption as he deems necessary to carry out the objectives of this Act. This section shall not be construed to limit the authority contained in sections 101 and 704 of this Act.

SEC. 103. Any person who willfully performs any act prohibited, or willfully fails to perform any act required, by the provisions of

this title or any rule, regulation, or order thereunder, shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than one year, or both.

* * * * * * *

SEC. 303. (a) To assist in carrying out the objectives of this Act, the President may make provision (1) for purchases of or commitments to purchase metals, minerals, and other materials, for Government use or resale; and (2) for the encouragement of exploration, development, and mining of critical and strategic minerals and metals: *Provided, however,* That purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced except insofar as such domestically produced supply may be purchased for resale for industrial uses or stockpiling, and no commodity purchased under this subsection shall be sold at less than the established ceiling price for such commodity (except that minerals and metals shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower), or, if no ceiling price has been established, the higher of the following: (i) the current domestic market price for such commodity, or (ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation as provided in section 407 of Public Law 439, Eighty-first Congress: *Provided further, however,* That no purchase or commitment to purchase any imported agricultural commodity shall be made calling for delivery more than one year after the expiration of this Act.

(b) Subject to the limitations in subsection (a), purchases and commitments to purchase and sales under such subsection may be made without regard to the limitations of existing law, for such quantities, and on such terms and conditions, including advance payments, and for such periods, but not extending beyond [June 30, 1963], *June 30, 1965,* as the President deems necessary, except that purchases or commitments to purchase involving higher than established ceiling prices (or if there be no established ceiling prices, currently prevailing market prices) or anticipated loss on resale shall not be made unless it is determined that supply of the materials could not be effectively increased at lower prices or on terms more favorable to the Government, or that such purchases are necessary to assure the availability to the United States of oversea supplies.

* * * * * * *

TITLE VII—GENERAL PROVISIONS

SEC. 701. (a) It is the sense of the Congress that small-business enterprises be encouraged to make the greatest possible contribution toward achieving the objectives of this Act.

(b) In order to carry out this policy—

(i) the President shall provide small-business enterprises with full information concerning the provisions of this Act relating to, or of benefit to, such enterprises and concerning the activities of the various departments and agencies under this Act;

(ii) such business advisory committees shall be appointed as shall be appropriate for purposes of consultation in the formulation of rules, regulations, or orders, or amendments thereto issued under authority of this Act, and in their formation there shall be fair repre-

sentation for independent small, for medium, and for large business enterprises, for different geographical areas, for trade association members and nonmembers, and for different segments of the industry;

(iii) in administering this Act, such exemptions shall be provided for small-business enterprises as may be feasible without impeding the accomplishment of the objectives of this Act; and

(iv) in administering this Act, special provision shall be made for the expeditious handling of all requests, applications, or appeals from small-business enterprises.

* * * * * * *

SEC. 701. (c) Whenever the President invokes the powers given him in this Act to allocate any material [in the civilian market, he shall do so in such a manner as] *and finds that such action will result in a significant dislocation of the normal distribution of such material in the civilian market, to such a degree as to cause appreciable hardship, he shall, whenever he finds that such action will alleviate such hardship without having an unfavorable effect on the civilian economy as a whole, exercise such controls under this Act as he may deem necessary* to make available, so far as practicable, for business and various segments thereof in the normal channel of distribution of such material, a fair share of the available civilian supply based, so far as practicable, on the share received by such business under normal conditions during a representative period preceding any future allocation of materials: *Provided*, That the President shall, in the allocation of materials in the civilian market, give due consideration to the needs of new concerns and newly acquired operations, undue hardships of individual businesses, and the needs of smaller concerns in an industry.

(d) In order to further the objectives and purposes of this section, the Office of Defense Mobilization is directed to investigate the distribution of defense contracts with particular reference to the share of such contracts which has gone and is now going to small business, either directly or by subcontract; to review the policies, procedures, and administrative arrangements now being followed in order to increase participation by small business in the mobilization program; to explore all practical ways, whether by amendments to laws, policies, regulations, or administrative arrangements, or otherwise, to increase the share of defense procurement going to small business; to get from the departments and agencies engaged in procurement, and from other appropriate agencies including the Small Business Administration, their views and recommendations on ways to increase the share of procurements going to small business; and to make a report to the President and the Congress, not later than six months after the enactment of the Defense Production Act Amendments of 1955, which report shall contain the following: (i) a full statement of the steps taken by the Office of Defense Mobilization in making investigations required by this subsection; (ii) the findings of the Office of Defense Mobilization with respect to the share of procurement which has gone and is now going to small business; (iii) a full and complete statement of the actions taken by the Office of Defense Mobilization and other agencies to increase such small business share; (iv) a full and complete statement of the recommendations made by the procurement agencies and other agencies consulted by the Office of

Defense Mobilization; and (v) specific recommendations by the Office of Defense Mobilization for further action to increase the share of procurement going to small business.

* * * * * * *

SEC. 712. (a) There is hereby established a joint congressional committee to be known as the Joint Committee on Defense Production (hereinafter referred to as the committee), to be composed of ten members as follows:

(1) Five members who are members of the Committee on Banking and Currency of the Senate, three from the majority and two from the minority party, to be appointed by the chairman of the committee; and

(2) Five members who are members of the Committee on Banking and Currency of the House of Representatives, three from the majority and two from the minority party, to be appointed by the chairman of the committee.

A vacancy in the membership of the committee shall be filled in the same manner as the original selection. The committee shall elect a chairman and a vice chairman from among its members, one of whom shall be a member of the Senate and the other a member of the House of Representatives.

(b) It shall be the function of the committee to make a continuous study of the programs and of the fairness to consumers of the prices authorized by this Act and to review the progress achieved in the execution and administration thereof. Upon request, the committee shall aid the standing committees of the Congress having legislative jurisdiction over any part of the programs authorized by this Act; and it shall make a report to the Senate and the House of Representatives, from time to time, concerning the results of its studies, together with such recommendations as it may deem desirable. Any department, official, or agency administering any of such programs shall, at the request of the committee, consult with the committee, from time to time, with respect to their activities under this Act.

(c) The committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places, to require by subpena (to be issued under the singature of the chairman or vice chairman of the committee) or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 40 cents per hundred words. The provisions of sections 102 to 104, inclusive, of the Revised Statutes shall apply in case of any failure of any witness to comply with any subpena or to testify when summoned under authority of this subsection.

(d) The committee is authorized to appoint and, without regard to the Classification Act of 1949, as amended, fix the compensation of such experts, consultants, technicians, and organizations thereof, and clerical and stenographic assistants as it deems necessary and advisable.

[(e) The expenses of the committee under this section, which shall not exceed $65,000 in any fiscal year, shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund

of the House of Representatives upon vouchers signed by the chairman or vice chairman. Disbursements to pay such expenses shall be made by the Clerk of the House of Representatives out of the contingent fund of the House of Representatives, such contingent fund to be reimbursed from the contingent fund of the Senate in the amount of one-half of disbursements so made without regard to any other provision of law.]

(e) *The expenses of the committee under this section, which shall not exceed $65,000 in any fiscal year, shall be paid from the contingent fund of the House of Representatives upon vouchers signed by the Chairman or Vice Chairman.*

(f) The Secretary of Commerce shall make a special investigation and study of the production, allocation, distribution, use of nickel, of its resale as scrap, and of other aspects of the current situation with respect to supply and marketing of nickel, with particular attention to, among other things, the adequacy of the present system of nickel allocation between defense and civilian users. The Secretary of Commerce shall consult with the Joint Committee on Defense Production during the course of such investigation and study with respect to the progress achieved and the results of the investigation and study, and shall make an interim report on the results of the investigation and study on or before July 15, 1956, and shall, on or before December 31, 1956, make a final report on the results of such investigation and study, together with such recommendations as the Secretary of Commerce deems advisable. Such reports shall be made to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House of Representatives if the House is not in session).

* * * * * * *

SEC. 717. (a) Title I (except section 104), title III, and title VII (except section 714) of this Act, and all authority conferred thereunder, shall terminate at the close of [June 30, 1956.] *June 30, 1958.* Section 714 of this Act, and all authority conferred thereunder shall terminate at the close of July 31, 1953. Section 104, title II, and title VI of this Act, and all authority conferred thereunder shall terminate at the close of June 30, 1953. Title IV and V of this Act, and all authority conferred thereunder, shall terminate at the close of April 30, 1953.

(b) Notwithstanding the foregoing—

(1) The Congress by concurrent resolution or the President by proclamation may terminate this Act prior to the termination otherwise provided therefor.

(2) The Congress may also provide by concurrent resolution that any section of this Act and all authority conferred thereunder shall terminate prior to the termination otherwise provided therefor.

(3) Any agency created under this Act may be continued in existence for purposes of liquidation for not to exceed six months after the termination of the provision authorizing the creation of such agency.

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INDIVIDUAL VIEWS OF MR. BUSH

While I favor a reasonable extension of the present provisions of the Defense Production Act of 1950, as amended, I strongly oppose the "geographical dispersal" amendment added to the bill by a vote of only 6 members of our 15-man committee.

I oppose the proposed amendment because—

1. It greatly overemphasizes the importance of dispersal of industry as a measure of national security.

2. It creates a grave danger that decision-making Federal officials would be exposed to heavy political pressures in procurement and in location of industrial facilities.

3. Instead of strengthening the national defense, it could seriously weaken our mobilization base by forcing dislocations in the industrial and social structures.

DISPERSAL ONLY ONE FACTOR

In an age of rapid development of guided missiles with atomic warheads, no one conscious of the national security would deny that geographical dispersal is a factor which should be taken into consideration. But it is only one factor, and in many cases by no means the most important. An industrial establishment at the South Pole would undoubtedly satisfy the aim of locating plants at a desirably safe distance from the striking base of our present potential enemy. By the same token, if we were to locate all new industrial facilities solely in United States territories in the Pacific and Caribbean, we would come close to achieving maximum geographic dispersal on soil under United States control, considering the industrial development already existing on the mainland. But it is apparent that such action would not best contribute to the efficient economic mobilization of United States resources.

OTHER FACTORS

Other factors that come readily to mind in the economic evaluation of plant location are as follows:

1. Convenient availability of production materials.
2. Adequacy and productivity of labor.
3. Availability of adequate industrial fuel.
4. Sufficiency of transportation facilities.
5. Proximity to markets.
6. Adequacy of distribution facilities.
7. Dependability of power and water.
8. Acceptability of living conditions, including adequacy and cost of housing and community facilities (stores, schools, places of worship, hospitals, water and sewer systems, power and fuel, cultural and recreational facilities).
9. Availability of adequate sites.

10. Favorability of construction costs.
11. Acceptability of climate.
12. Ready accessibility to servicing, repair and replacement facilities for machinery, components and parts.
13. Attractiveness of tax structure.
14. Acceptability of State and local laws and regulations.
15. Overall economy and efficiency of operation.
16. Ability to meet deadlines for timely delivery of end products at specified places.
17. In the case of a defense plant, proximity to supply of capable employees who become available for defense work as production for civilian use dwindles during a national emergency.

In time of national emergency, the best production with the least possible amount of money is called for, in view of the tremendous costs necessarily heaped upon the American taxpayer during such an emergency, and the need for obtaining the optimum return from the use of each dollar in order to protect the solvency of the Nation and dampen tendencies toward inflation.

As noted by one of our senatorial colleagues experienced in industrial operation, there are some 40 to 50 different considerations a private firm bears in mind in deciding upon a location for its activities.

In large measure, these have determined the present pattern of industrial location. In the absence of any dispersal requirement, industrial facilities in World War II sprang up in many sections of the Nation. Their location was not dictated solely by dispersal considerations, even when constructed by the Federal Government itself. Since the end of the war, factors apart from national defense considerations have prompted continuation of the trend to decentralize industry into small communities.

Even the Federal official chiefly relied upon by the proponents of the amendment has testified:

> I have taken this position consistently: That dispersal as an objective cannot be the only objective that can be taken into consideration. I have stressed a great many times my own feeling that one of the objectives we have to keep in mind in this country at all times is an effective functioning urban economy. (See testimony of Dr. Arthur S. Flemming, Director, Office of Defense Mobilization, given to Subcommittee on Production and Stabilization of United States Senate Committee on Banking and Currency on April 23, 1956, relative to S. 3407, hearings, p. 12).

Yet the amendment would amend the basic declaration of policy of the Defense Production Act of 1950 by referring only to the policy of geographic dispersal of industrial facilities. While it closes with the condescending note that it is not to "preclude the use of existing industrial facilities," it contains no positive declaration of purpose to encourage the use of existing industrial facilities. By contrast, the current Department of Defense Directive No. 5220.5, dated November 17, 1955, affirmatively requires:

> Every effort will be made to require the use of existing facilities before new facilities are constructed.

The directive expressly recognizes that use of existing facilities is required in order to avoid the excessive cost and resulting social dislocation attendant upon their abandonment.

BROAD SCOPE OF AMENDMENT

Nor does the amendment limit its application to defense plants. It expressly mandates all departments and agencies in the executive branch to apply the principle of geographic dispersal in the following cases:

1. Construction of any Government-owned industrial facility;
2. Aid through Government financial assistance to the construction, expansion, or improvement of any industrial facility; and
3. Procurement of goods and services;

whether these actions are taken under the Defense Production Act of 1950 or any other act.

These pervasive directives are included with a purported congressional declaration of policy to promote geographical dispersal of industrial facilities of the United States and to discourage their concentration in limited geographical areas vulnerable to enemy attack.

The amendment would become a new section to the present well-rounded declaration of policy in the Defense Production Act of 1950. As now stated, that policy notes that our mobilization effort continues to require diversion of certain materials and facilities from civilian use to military and related purposes. It further states that this requires development of preparedness programs and expansion of productive capacity and supply beyond levels needed to meet civilian demand. It asserts such development and expansion is needed to reduce the time required for full mobilization in event of attack.

It will be noted that this language is all hinged to our mobilization effort. The amendment introduces the seemingly parallel and equal goal of geographical dispersal of industrial facilities in the United States.

It ignores the fact that many other considerations must be weighed in arriving at the important decision as to the best geographical grouping of the United States industrial complex in the interest of national defense. This grouping should serve the purpose of providing a readily expandable and efficient base for economic mobilization at a minimum cost.

SIMILAR AMENDMENT REJECTED IN 1951

One of our former colleagues described a similar, but less virulent proposed amendment offered unsuccessfully in 1951 to this same statute, as a pork-barrel amendment. The undignified attempt to wrap the barrel in the bunting of national security failed to disguise its true nature. Even the sponsor of this present dispersal amendment joined with 55 of his colleagues in defeating the earlier amendment in 1951 by a vote of 56 to 25, with 2 absentees recording the fact that they would also have voted against the amendment had they been present.

The amendment thus defeated by a better than 2 to 1 vote was less obnoxious than the dispersal amendment in the present bill, because it was not mandatory and it considered the factors of availability of labor and natural resources as well as vulnerability to attack. More-

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over, it made no pretence of using the Federal Government's vast and important procurement powers as a means of compelling dispersal.

The arguments used in successfully defeating that proposed amendment are fully as applicable to the present dispersal amendment—in some cases to an even greater degree. These arguments may be summarized as follows:

1. Would remove industry from areas in which a speedy stepup in defense production is possible when civilian-use production slackens.
2. Increases costs to Federal Government (causes decline in tax proceeds due to larger depreciation allowances; compels Government as purchaser of end product to pay higher purchase price; requires Federal financial aid to provide new housing, schools, hospitals, water and sewer systems, and general community facilities).
3. Slows production due to difficulty of attracting capable labor and management to new areas lacking acceptable living conditions.
4. The present industrial location pattern is shaped by overall efficiency and economy—not by fortuity.
5. Forced dispersal interferes with pattern of successful production of best product in shortest time at least expense.
6. If suitable or efficient, areas of our Nation favored by a dispersal requirement would develop an industrial economy anyway.
7. Stagnates existing industrial areas, depriving them of increased efficiency and economy possible through expansion there.
8. Wastes and depreciates value of housing and community facilities readily available in such areas.
9. Leads to wasteful use of Federal funds.
10. Foreshadows Federal measures to freeze labor to jobs in order to make feasible continued operation of forcibly dispersed plants.
11. Opens the door to political pressure in the location of new industrial facilities, using Federal tax funds as an incentive or a blackjack, as required.
12. Places dictatorial power in the hands of nonelected Federal officials, enabling them to favor certain regions over others by using a test not necessarily in the best interest of national defense.
13. The amendment is an unwarranted interference with the balanced judgment of both Government and industry officials in deciding the best location for industrial facilities in the interest of national defense.
14. The initiative of small business working in a free-enterprise system itself leads to dispersal of industry.
15. The amendment embodies a wasteful proposal demanding costly construction of schools, streets, and other community facilities in the vicinity of the new plant sites.

SIMILAR PROVISION ALSO DEFEATED IN 1944

In 1944, a similar effort opposed as forcing an unnatural and uneconomic dispersal of industry also was defeated in the United States Senate. Thus, the present dispersal amendment is not a new idea, but a rehash of earlier proposals twice defeated by this same body.

CHANGES IN ATTACK TECHNIQUES DECREASE VALUE OF DISPERSAL

In successfully opposing the amendment proposed in 1951, the present minority leader noted the swiftly changing pattern of acceptable security measures. Decisions made in the light of obsolete or

obsolescent security patterns would result in an unwise location of new and immobile industrial facilities. He noted that accompanying the development of the nature and destructive power of weapons, areas formerly deemed safe from attack became more vulnerable than those deemed subject to attack. Prior to the development of air power, seaboard areas of the United States were more exposed to enemy attacks than were its inland areas. The coming of airpower abruptly changed this pattern. Inviting attention to this fact in 1951, the distinguished senior Senator from California (Mr. Knowland) stated:

> Today a State in the middle of the country may be closer, across the polar ice cap, to the threat of Soviet agression than is a coastal State. By what standards are we to measure the likelihood that a given area would be subject to air attack?

A mere glance at a map to ascertain great circle distances rudely shakes the idea of increased safety from attack as one leaves the seacoast of the United States. A reorientation of our perspective regarding distances in the United States is called for. From the eye of an observer seated in Moscow, U. S. S. R., Seattle is only 538 miles further than New York City. Chicago is a mere 309 miles more distant from Moscow than New York. Even Los Angeles is only 1,338 miles further than New York.

Absolute distances airline on the great circle route from Moscow to various United States cities are as follows in order of increasing distance:

City	Miles	City	Miles
New York	4,665	Miami	5,731
Washington	4,858	New Orleans	5,820
Chicago	4,974	San Francisco	5,871
Seattle	5,203	Los Angeles	6,003

Other places in the U. S. S. R. are even closer to some of these cities. Our usual conception of the United States as being over 3,000 miles across from the Atlantic to the Pacific is faulty in great circle distance terms viewed from locations in the U. S. S. R. Taken alone, therefore, dispersal is far less a potential safety factor than it might otherwise seem.

INCREASE IN DESTRUCTIVE POTENTIAL OF WEAPONS DECREASES VALUE OF DISPERSAL

The recent geometrical increase in destructive capacity of weapons and the increase in ability to direct them to a given target at more and more lengthy distances from the launching site tends to make dispersal per se of even less value as a defensive measure. Considering both the increase in destructive capacity of weapons and the ability to hurl them accurately over extremely long distances, it is safe to assume that the value of dispersal as a protective measure will decrease accordingly.

Emphasizing the obsolescence of recent dispersal policy, Dr. Flemming, Director of the Office of Defense Mobilization, testified that it had become necessary to abandon the so-called mileage standard whereby a line having a 10-mile radius was drawn around an area of industralized concentration and installations beyond the 10-mile perimeter were deemed safe from a dispersal standpoint. He stated

it was abandoned because it was found to be not practical or feasible. Consequently, industrial facilities located in accordance with such dispersal policy no longer met present dispersal standards. Dr. Flemming concluded that in his opinion the best that could be done under present conditions is to consider each industrial facility on a case-by-case basis, weigh all the factors and arrive at the best possible decision. (Hearings on Defense Production Act Amendments of 1956, p. 14.)

AMENDMENT EITHER UNWISE OR REDUNDANT

But Dr. Flemming noted that ODM is presently following that policy and that "Senator Bennett's amendment would not change that one iota." In other words, whatever benefits may be derivable from a dispersal policy, they will not be increased by the present amendment. This leads to the inquiry: Why is the amendment advisable, if it does not add to the power the executive branch already claims to be exercising?

It is claimed it will constitute a confirmation by the Congress of an existing executive policy. But either the amendment will grant new power by legislation or the existing executive policy lacks a statutory basis. In the latter event, the present policy is invalid as an unlawful assumption of legislative power, for the Constitution places all legislative power in the Congress. On the other hand, an amendment purporting to give the Executive branch authority it already possesses is redundant and unnecessary.

As successor to the National Security Resources Board, ODM already has fallen heir to that phase of its duty described in the currently effective National Security Act of 1947 as—

> The strategic relocation of industries, services, Government, and economic activities, the continuous operation of which is essential to the Nation's security.

But this is limited in effect to defense-related activities. It is not nearly as broad in scope as the present dispersal amendment.

In addition to ODM and the Department of Defense, the Department of the Air Force has a current policy on industrial production readiness that includes dispersal as one among many other factors. (See hearings on Defense Production Act Amendments of 1956, pp. 15–19.)

Both Department of the Air Force and the Department of Defense policies modify application of the dispersal policy by considering such other factors as cost, social dislocation, production delay, use of existing plants before constructing new plants, and timely delivery. The directives caution that the urgency of dispersal should always be weighted against the urgency of the requirement for timely delivery of the vital product involved.

DEPARTMENT OF DEFENSE OPPOSES AMENDMENT

It is interesting to note that in his April 30, 1956 letter to Chairman Fulbright of the Committee on Banking and Currency, Secretary of the Air Force Quarles states that the Department of the Air Force, on

behalf of the Department of Defense, does not favor enactment of the present amendment. He explains the Department's position as follows:

> Proper application of the dispersal policy is an extremely complex matter and requires sound judgment and careful consideration of many factors. Each case has its own peculiar circumstances, and therefore, there is no established pattern or formula which gives proper weight to each factor involved. Consequently, it is important that the departments be allowed to exercise their judgment to the fullest extend within the broad policy as already established in existing Executive directives. Particularly in this regard, it is noted that section 2 of S. 2879 would require that "in the procurement of goods and services under any provision of law, the Department of Defense * * * shall apply to the greatest practicable extent the principle of the geographical dispersal of such facilities in the interest of national defense." This provision would require that consideration be given to a broad general principle not always consistent with other procurement objectives. While S. 2879 is entirely consistent in its intent, with existing Department of Defense policy, the very fact that it exists could give rise to question as to its interpretation in individual cases and, in that sense, be confusing. It is therefore felt that the purpose of S. 2879 is clearly recognized and being accomplished under existing directives, and that the enactment of this bill is undesirable.

OTHER REASONS FOR OPPOSITION

Among recorded opposition to the amendment may be noted the following:

The New England Council, Walter Raleigh, executive vice president:

> Established areas present advantages which cannot be overlooked in providing adequate qualitative and quantitative defense production such as a skilled labor force, experienced administrative personnel, research and scientific facilities, as well as completed facilities of all kinds (hearings, p. 127).

The New England Governor's Conference, Hon. Dennis J. Roberts, Governor of Rhode Island:

> Location of industry away from sources of raw materials and labor and efficient production will only increase cost and reduce effectiveness of the defense effort (hearings, p. 127).

New England Governor's Textile Committee, Dr. Seymour E. Harris, chairman:

> Similar proposals made in Truman administration but quickly abandoned—vulnerability one consideration but proximity to markets, materials, transportation, housing, and especially skilled labor very important. Unwise to double or treble costs and cut output in order to be ready for uncertain attack of uncertain time (hearings, p. 128).

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Connecticut Development Commission, Robert P. Lee, chairman:

> amendment * * * would seriously interfere with normal growth and the creation of job opportunities in practically every well-established industrial area in the country and would be a serious threat to the economy of the entire Northeast. In our opinion Office of Defense Mobilization is presently equipped with sufficient restrictive authority to protect the best interest and safety of the entire country and this proposed amendment is neither necessary nor desirable (hearings, p. 127).

ODM DISPERSAL POLICY MORE LIMITED

Present ODM policy on dispersal limits it to facilities important to national security. It also recognizes the advantages of ground environment or natural barriers as factors contributing to security of a given facility and thus achieving the benefits claimed for dispersal. But the present amendment's sponsor indicates he expects it to require dispersal among several States rather than on any intrastate basis.

Courts will not interpret a statute as being meaningless; hence they will be inclined to find a grant of new dispersal policy power in this amendment—leading to an overemphasis on dispersal.

The amendment is impaled on the horns of this dilemma: It is either unnecessary and redundant or it grants new and unwise dispersal authority to the executive branch.

CONCLUSION

It must constantly be borne in mind that the purpose of industrial facilities is to produce end products efficiently and economically as needed—not to remain in absolute safety. This prime reason for the existence of industrial facilities must be considered in weighing the value of safety from attack as a factor in their location. The latter is only one among many factors in measuring the value of a given plant site, and not the most important factor.

In World War II, Germany believed dispersion of its vital industries would amply protect them against any bombing attacks then anticipated. Yet by 1944 bombing raids by the Allied forces destroyed a large segment of Germany's surface industry and also crippled the transportation system, cutting deeply into the effective production of the remaining plants not physically damaged. Too little and too late Germany turned to construction of underground industrial facilities. At the end of hostilities, she had placed underground only 16.6 million square feet of a program calling for 99.5 million square feet of underground construction. This experience should serve as a warning lest we be lulled into a false sense of security concerning the absolute value of dispersion.

Constant care must be exercised in order that dispersed industry may not become displaced industry.

PRESCOTT BUSH.

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